Basic information

2005/0055(CNS) CNS - Consultation procedure Decision	Procedure completed
Civil and commercial judicial cooperation: EC/Denmark agreement extending to Denmark the provisions on jurisdiction and the recognition and enforcement of judgments (Regulation (EC) No 44/2001) Amended by 2009/0034(CNS) **Subject** 7.40.02 Judicial cooperation in civil and commercial matters **Geographical area** Denmark	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	GAUZÈS Jean-Paul (PPE-DE)	24/10/2005

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	10/05/2005

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2725	2006-04-27
Agriculture and Fisheries	2677	2005-09-19

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
15/04/2005	Legislative proposal published	COM(2005)0145	Summary
19/09/2005	Debate in Council		Summary

12/10/2005	Committee referral announced in Parliament		
23/02/2006	Vote in committee		Summary
24/02/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0038/2006	
23/03/2006	Decision by Parliament	T6-0105/2006	Summary
23/03/2006	Results of vote in Parliament		
27/04/2006	Act adopted by Council after consultation of Parliament		
27/04/2006	End of procedure in Parliament		
05/05/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0055(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Amendments and repeals	Amended by 2009/0034(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 061- EC Treaty (after Amsterdam) EC 300-p2/3-a1
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/27757

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE365.110	10/01/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0038/2006	24/02/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0105/2006	23/03/2006	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0145	15/04/2005	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2006/0325
OJ L 120 05.05.2006, p. 0022-0022 Summary

Civil and commercial judicial cooperation: EC/Denmark agreement extending to Denmark the provisions on jurisdiction and the recognition and enforcement of judgments (Regulation (EC) No 44/2001)

2005/0055(CNS) - 27/04/2006 - Final act

PURPOSE: the conclusion of an Agreement between the European Communities and Denmark in order to extend the provisions of Regulation 44/2001 /EC.

LEGISLATIVE ACT: Council Decision 2006/325/EC concerning the conclusion 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: the Agreement to extend the provisions of Regulation 44/2001/EC *on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters* was signed in October 2005. This Decision forms the Conclusion of the Agreement's signature. Regulation 44/2001 is also known as the "Brussels I" Regulation. For a summary of its provisions please refer to 1999/0154(CNS).

To recall, Denmark has not been bound by the provisions of the Brussels I Regulation, 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 and implementing measures of the Brussels I Regulation to Denmark. The stated objective being that these provisions and measures be applied uniformly. Certain modifications, for the purpose of this Agreement, are foreseen and include *inter alia* requirements on qualifying for complete or partial legal aid.

The Agreement sets out procedures specifying how and under what conditions Denmark will take part in the adoption of amendments to the Brussels I Regulation; as are provisions on implementing measures. These 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 the Brussels I Regulation, 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 the Brussels I Regulation.

Lastly, rules are set out regarding the Agreement's relationship with the Brussels I Regulation. Thus, the Agreement will not prejudice Member State application, other than Denmark, of the Brussels I Regulation. The Agreement will be applied in matters of jurisdiction, where the defendant is domiciled in Denmark. It also applies to a *lis pendens* or to related actions and in matters of recognition and enforcement, where Denmark is either the State of origin or the State addressed.

Either Contracting Party may terminate the Agreement through a notification.

ENTRY INTO FORCE: The Agreement will be adopted by the Contracting Parties in accordance with their respective procedures and 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.

Civil and commercial judicial cooperation: EC/Denmark agreement extending to Denmark the provisions on jurisdiction and the recognition and enforcement of judgments (Regulation (EC) No 44/2001)

2005/0055(CNS) - 15/04/2005 - Legislative proposal

PURPOSE: to sign and conclude the Agreement between the European Community and Denmark extending to Denmark the provisions of Council Regulation 44/2001/EC on jurisdiction and the recognitions and enforcement of judgments in civil and commercial matters.

PROPOSED ACT: Council Decision.

CONTENT: in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and the Treaty establishing the European Community, Denmark does

not participate in Title IV of the Treaty. As a consequence, Community instruments adopted in the field of, among others, judicial cooperation in civil matters are not binding upon or applicable in Denmark.

One of these Community instruments is Council Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. This Regulation has replaced the Brussels Convention of 1968 on the same matter, to which Denmark is a party. The Regulation contains revised and modernized rules of the Brussels Convention and applies to all Member States except Denmark; the United Kingdom and Ireland having exercised their right to opt in.

The non-application of Regulation 44/2001/EC in Denmark results in a most unsatisfactory legal situation: Not only does Denmark continue to apply the old rules of the Brussels Convention, but also all other Member States have to apply these rules, i.e. a set of rules different from the one they use in their mutual relations, when it comes to the recognition and enforcement of Danish decisions. This constitutes a step backwards given that prior to the entry into force of Regulation 44/2001 the rules of the Brussels Convention applied uniformly in all Member States. The current situation therefore jeopardizes the uniformity and legal certainty of the Community rules.

Denmark expressed at several occasions its interest to participate in the new regime. The Commission accepted to negotiate parallel agreements with Denmark, provided that the following conditions were fulfilled: such a solution would have to be of an exceptional nature and apply for a transitional period only, the participation of Denmark in the Community regime would have to be fully in the interests of the Community and its citizens and the requirements imposed on Denmark would have to be identical to those imposed on all Member States, so as to ensure that rules with the same content are applied in Denmark and in the other Member States.

In view of the situation outlined above, the Commission considered it to be in the Community interest to extend to Denmark the provisions of Regulations 44/2001/EC and 1348/2000/EC on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

The agreement extending the provisions of Regulation 1348/2000/EC to Denmark is the subject matter

of a separate Council Decision (**Please refer to CNS/2005/0056**).

The Commission presented on 28th June 2002 a recommendation for a Council Decision authorizing the Commission to open negotiations for the conclusion of the two agreements between the European Community and Denmark.

The Commission negotiated the parallel agreement extending to Denmark the provisions of Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters in accordance with the Council's negotiating directives, carefully ensuring that rights and obligations of Denmark under this agreement correspond to rights and obligations of the other Member States.

As a result, the parallel agreement contains, in particular, the following provisions:

- appropriate rules on the role of the Court of Justice to ensure the uniform interpretation of the instrument applied by the parallel agreement between Denmark and the other Member States;

- a mechanism to enable Denmark to accept future amendments by the Council to the basic instrument and the future implementing measures to be adopted under Article 202 of the EC Treaty;

- a clause providing that the agreement is considered terminated if Denmark refuses to accept such future amendments and implementing measures;

- rules specifying Denmark's obligations in negotiations with third countries for agreements concerning matters covered by the parallel agreement;

- the possibility of denouncing the parallel agreement by giving notice to the other Contracting Party.

Civil and commercial judicial cooperation: EC/Denmark agreement extending to Denmark the provisions on jurisdiction and the recognition and enforcement of judgments (Regulation (EC) No 44/2001)

2005/0055(CNS) - 23/03/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Jean-Paul **GAUZÈS** (EPP-ED, FR) and approved the conclusion of the Agreement.

Civil and commercial judicial cooperation: EC/Denmark agreement extending to Denmark the provisions on jurisdiction and the recognition and enforcement of judgments (Regulation (EC) No 44/2001)

2005/0055(CNS) - 19/09/2005

The Council approved the signing of two agreements between the EU and Denmark extending to Denmark the provisions of the Regulation 1348/2000 /EC on the service of judicial and extrajudicial documents in civil or commercial matters and the provisions of the Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.