Basic information

2005/0056(CNS) CNS - Consultation procedure Decision	Procedure completed
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) Amended by 2009/0031(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
18/04/2005	Legislative proposal published	COM(2005)0146	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	A6-0039/2006	
23/03/2006	Decision by Parliament	T6-0106/2006	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	2005/0056(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Amendments and repeals	Amended by 2009/0031(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 300-p2/3-a1 EC Treaty (after Amsterdam) EC 061-
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/27755

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE365.109	10/01/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0039/2006	24/02/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0106/2006	23/03/2006	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0146	18/04/2005	Summary

Additional information

Source	Document	Date

Final act

Decision 2006/0326
OJ L 120 05.05.2006, p. 0023-0024

Summary

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) - 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. The report was adopted by 548 votes in favour and 11 against, with 19 abstentions.

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.

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) - 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.

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) - 18/04/2005 - Legislative proposal

PURPOSE: to sign and conclude the Agreement between the European Community and Denmark extending to Denmark the provisions of Council Regulation 1348/2000/EC on the service in the Member States of judicial and extrajudicial documents in civil or 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 1348/2000/EC on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. The UK and Ireland having exercised their right to opt in, this Regulation applies to all Member States except Denmark. Regulation 1348/2000/EC plays an important role for the functioning of Council Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, since the latter refers to its provisions for the service of documents instituting proceedings or equivalent documents.

The non-application in Denmark of Regulation 44/2001/EC results in an unsatisfactory legal situation. It constitutes a step backwards given that prior to the entry into force of Regulation 44/2001/EC the rules of the Brussels Convention applied uniformly to all Member States. The current situation therefore jeopardizes the uniformity and legal certainty of the Community rules.

Denmark has expressed on several occasions its interest to participate in the regime constituted by these two Regulations. The Commission eventually 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 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 the two Regulations. In view of the situation outlined above, the Commission considered it to be in the Community interest to extend to Denmark the provisions of Regulation 44/2001 and Regulation 1348/2000. The agreement extending the provisions of Regulation 44/2001/EC to Denmark is the subject matter of a separate Council Decision. (**Please refer toCNS/2005/0055**).

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

The Council decided on 8 May 2003 to exceptionally authorize the Commission to negotiate an agreement with Denmark with the view to make the provisions of both Regulations applicable to Denmark under international law.

The Commission negotiated the parallel agreement extending to Denmark the provisions of Regulation 1348/2000 on the service of judicial and extrajudicial documents 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.