Basic information

2009/0034(CNS) CNS - Consultation procedure Decision	Procedure completed
Civil and commercial judicial cooperation: implementation of Article 5(2) of the EC/Denmark Agreement on jurisdiction and the recognition and enforcement of judgments Amending Decision 2006/325/EC 2005/0055(CNS) **Subject** 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	GERINGER DE OEDENBERG Lidia Joanna (S&D)	02/09/2009
	Shadow rapporteur ZWIEFKA Tadeusz (PPE)	

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs		

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

Former committee for opinion	Former rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs		

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2979	2009-11-30

European Commission	Commission DG	Commissioner
	Justice and Consumers	BARROT Jacques

Key events

Date	Event	Reference	Summary
04/03/2009	Legislative proposal published	COM(2009)0101	Summary
02/04/2009	Committee referral announced in Parliament		
19/10/2009	Resumption of business from the previous parliamentary term		
10/11/2009	Vote in committee		Summary
13/11/2009	Committee report tabled for plenary, 1st reading/single reading	A7-0056/2009	
24/11/2009	Decision by Parliament	T7-0078/2009	Summary
24/11/2009	Results of vote in Parliament		
30/11/2009	Act adopted by Council after consultation of Parliament		
30/11/2009	End of procedure in Parliament		
16/12/2009	Final act published in Official Journal		

Technical information

Procedure reference	2009/0034(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Amendments and repeals	Amending Decision 2006/325/EC 2005/0055(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 081-p2 Treaty on the Functioning of the European Union TFEU 218-p6a
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/00269

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE428.218	21/09/2009	
Committee report tabled for plenary, 1st reading/single reading		A7-0056/2009	13/11/2009	
Text adopted by Parliament, 1st reading/single reading		T7-0078/2009	24/11/2009	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2009)0101	04/03/2009	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Decision 2009/0942
OJ L 331 16.12.2009, p. 0024 Summary

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.

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) - 24/11/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 648 votes to 19, with 3 abstentions, a legislative resolution approving unamended under the consultation procedure, the proposal for a Council decision 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.

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) - 04/03/2009 - Legislative proposal

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.

PROPOSED ACT: Council Decision.

BACKGROUND: 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 the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and
- the Agreement between the European Community and the Kingdom of 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. The objective of the proposal(s) is 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.

IMPACT ASSESSMENT: the Commission evaluated different options for setting up the implementation procedure, although without carrying out a formal impact assessment. One of the options would have consisted of amending both parallel agreements in order to provide for a particular implementation procedure. This would have been a much heavier procedure and, since the issue urgently requires a solution, this option was not followed.

The option chosen by the Commission envisages a simple and relatively swift solution, i.e. amending the Council Decisions on the conclusion of the parallel agreements so as to insert the particular provisions on the procedure to be followed by the European Community for taking decisions regarding its agreement to the conclusion by Denmark of international agreement concerned.

CONTENT: the Commission proposes amending Council Decision 2006/325/EC and Council Decision 2006/326/EC in order to insert into those decisions provisions on the implementation of Article 5(2) of the parallel agreements.

The same procedure is provided for the implementation of both parallel agreements.

However, two situations are distinguished, and a **different procedure** for the European Community to give its agreement is laid down for each of those situations. The common denominator in both situations is that the Commission is empowered by the Council to give the agreement on behalf of the European Community.

a) **the first situation** includes cases where the Member States have already been authorised to conclude the international agreement concerned. This is the case, for example, of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunkers Convention), where the Community has already authorised its Member States, in the interest of the Community, to sign, ratify or accede to it. This first situation will also cover cases where the Community has itself become a party to international agreements affecting the Brussels I Regulation or the Regulation on the service of documents. In the cases described, given the fact that the Community has already reviewed the possibility of those Community instruments being affected by the international agreement concerned and has provided, where necessary, for safeguards to ensure that those Community instruments are applied in the relevant cases, a simple procedure is established. In such situations, the Commission will be empowered to give the agreement to Denmark on behalf of the European Community;

b) **the second situation** covers all cases that do not fall into the first category above. In such cases there is a need to discuss with the Member States the possibility of the Regulations concerned being affected by the international agreement which Denmark intends to conclude. The Member States will therefore be involved in the decision-making process through the comitology procedure. In such situations the Commission will be empowered to give the agreement to Denmark on behalf of the European Community through the comitology procedure.

Legal elements: for practical reasons the Commission is presenting at the same time two proposals for implementing both parallel agreements (see CNS/2009/0031), with relevant amending provisions for both.

BUDGETARY IMPLICATIONS: the proposal has no implications for the Community budget.