

# **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.