

# Denmark's ratification of the "parallel" agreements on Reg. 44/2001 and Reg. 1348/2000

As stated on recent news published on the European Judicial Network (EJN) website, on 18 January 2007 **Denmark notified the European Community that it has ratified the two "parallel" agreements** concluded between the European Community and Denmark to extend to the latter the provisions of Regulation 44/2001 ("Brussels I") and Regulation 1348/2000 on the service in the Member States of judicial and extrajudicial documents.

The **entry into force of the two agreements, on 1st July 2007**, will put an end to the current situation where the uniform rules contained in Reg. 44/2001 and in Reg. 1348/2000 are not in force in Denmark and they are not applied in the relations between other Member States and Denmark, due to the non-participation of the latter State in Title IV of the EC Treaty (see the *Protocol on the position of Denmark* annexed to the EC Treaty as amended by the Amsterdam Treaty).

As regards judicial cooperation in civil and commercial matters, the consequences of Denmark's opting-out have been strongly criticised by the Commission, in the *Explanatory memorandum* accompanying the *Proposals for Council Decisions concerning the conclusion and the signing of the Agreements between the European Community and the Kingdom of Denmark* (COM(2005) 145 def., as regards Reg. 44/2001, and COM(2005) 146 def., as regards Reg. 1348/2000):

*The non-application of Regulation 44/2001 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.*

Hence the necessity to extend, by way of traditional international law instruments, the provisions of Brussels I Reg. (and of Reg. 1348/2000, strictly related to the functioning of the former) to Denmark.

The negotiations procedure and its outcome are summarized as follows in the Commission's Proposals referred to above:

*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 Regulation 44/2001 and Regulation 1348/2000 to Denmark.*

*The Council decided on 8 May 2003 to exceptionally authorize the Commission to negotiate [...]. The Commission negotiated the parallel agreement [...] 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.*

The parallel agreements were signed on 19th October 2005, following two Council Decisions of 20th September 2005 (2005/790/EC, as regards Reg. 44/2001, and 2005/794/EC, as regards Reg. 1348/2000) and subject to their possible conclusion at a later date.

The Council decision on the conclusion of the agreements can be found here:

- for Regulation 44/2001: Council Decision 2006/325/EC (OJ 2006, L 120 p. 22);
- for Regulation 1348/2000: Council Decision 2006/326/EC (OJ 2006 L 120 p. 23).

The **text of the agreements** can be found here, as attachments to the Council Decisions on the signing of the agreements:

- **for Regulation 44/2001: Annex** to Council Decision 2005/790/EC;
- **for Regulation 1348/2000: Annex** to Council Decision 2005/794/EC.

*(Many thanks to Pietro Franzina, University of Ferrara, for the initial tip-off).*