

Revision of the Lugano Convention: Final Round of Negotiations in Brussels

As stated by recent news on the European Judicial Network (EJN) website, **a final version of the text of the new Lugano Convention** on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters **was agreed upon at a diplomatic conference held in Brussels on 28 March 2007** by the EC, Denmark and the three EFTA States which are party to the old Lugano convention (Switzerland, Norway and Iceland).

The definitive text of the Convention, resulting from the final round of negotiations, has not been made available on the EJN website yet: **a final draft in English (as initialled by the Contracting Parties) is available on the website of the Swiss Federal Office of Justice**, where a summary of the negotiation history is provided, including the several delays that the revision process has incurred:

At the end of April 1999, an EU-EFTA working group completed a draft of the substantive part of the revision of the Lugano and Brussels Conventions. Shortly afterwards, in May 1999, the Treaty of Amsterdam came into force for the EU member states. This treaty provides the basis for EC competence in civil justice cooperation. The revised text of the new agreement was consequently moulded into an EC regulation known as the Brussels I Regulation, without having any substantive effect on the outcome of the negotiations. [...]

The formal revision of the Convention was delayed for several reasons: firstly, there was a difference in interpretation of the paragraph on consumers by the Internet providers and consumers. This question had to be resolved before the Brussels I Regulation (Council Regulation (EC) No 44/2001) was passed on 22 December 2000 (entry into force 1 March 2002). The Lugano negotiations were further delayed because a separate instrument had to be negotiated with Denmark, which under the EC Treaty is not a party to the EC-driven integration of police and judicial affairs.

Moreover, it was unclear for a long time whether the European Community had

exclusive or shared competence to conclude the new Lugano Convention. The opinion of the European Court of Justice dated 7 February 2006 ruled that the conclusion of the new agreement fell entirely within the sphere of the Community's exclusive competence, which means that Switzerland, Norway and Iceland now only have to negotiate with one single contracting party ? the European Community, acting through the EC Commission. The EU member states enjoy observer status.

The final negotiations on the formal revision of the Lugano Convention took place at the Diplomatic Session in Lugano from 9 to 12 October 2006 where nearly all the controversial issues were resolved. The remaining issues were resolved in the course of subsequent informal negotiations. In March 2007, a final text was agreed upon, subject to possible subsequent linguistic corrections and to signature by the Contracting Parties [...].

The initialled text of the Convention will now be translated into the official languages of the Contracting Parties (all the languages of the EU and those of the other Contracting States, all texts being equally authentic: see art. 79 and Annex VIII to the Convention). The signature of the Convention should take place in Lugano in the coming months, probably in June 2007. The ratification procedures in the Contracting Parties will most likely not allow the Convention to enter into force before 2009.

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