DECISIONS

COMMISSION DECISION (EU) 2015/1380

of 10 August 2015

authorising the Kingdom of Denmark to ratify the Convention on international interests in mobile equipment and its Protocol on matters specific to aircraft equipment, adopted jointly in Cape Town on 16 November 2001

(notified under document C(2015) 5553)

(Only the Danish text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2006/325/EC of 27 April 2006 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 ([1]), and in particular Article 1a thereof,

Whereas:

(1) 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 ([2]) ('the Agreement') requires Denmark to abstain from entering into international agreements which could affect or alter the scope of Council Regulation (EC) No 44/2001 ([3]), unless it does so in agreement with the European Union and satisfactory arrangements have been made with regard to the relationship between the Agreement between the European Union and Denmark, on the one hand, and the international agreement in question on the other. Regulation (EC) No 44/2001 was repealed and replaced by Regulation (EU) No 1215/2012 of the European Parliament and of the Council ([4]).

(2) In accordance with Article 3(2) of the Agreement, Denmark notified the Commission, by letter of 20 December 2012, of its decision to implement the contents of Regulation (EU) No 1215/2012 ([5]). In accordance with Article 3(6) of the Agreement, the Danish notification created mutual obligations under international law between Denmark and the European Union. Regulation (EU) No 1215/2012 thus constitutes an amendment to the Agreement.

(3) On 30 March 2015, Denmark requested the European Union's agreement to its proposed ratification of the Convention on international interests in mobile equipment ('the Convention') and its Protocol on matters specific to aircraft equipment ('the Protocol'), adopted jointly in Cape Town on 16 November 2001.

(4) Some of the matters governed by the Convention and the Protocol are also covered by Regulation (EU) No 1215/2012, as a result of which those instruments affect that Regulation. In particular, Article 13 of the Convention and Article X of the Protocol govern interim relief. The latter article applies only if a Contracting State to the Protocol has made a declaration under its Article XXX(2). Furthermore, Article 43 of the Convention and Article XXI of the Protocol govern the jurisdiction of the courts under Article 13 of the Convention. The European Union's agreement for Denmark to ratify the Convention and the Protocol is therefore necessary in so far as these rules affect Regulation (EU) No 1215/2012.

(5) Under Article 1a of Decision 2006/325/EC for the purpose of applying Article 5(2) of the Agreement, the Commission must assess, before taking a decision expressing the Union's agreement, whether the international agreement envisaged by Denmark would not render the Agreement ineffective and would not undermine the proper functioning of the system established by its rules.

([1]) OJ L 120, 5.5.2006, p. 22.
([2]) OJ L 299, 16.11.2005, p. 62.
([3]) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 12, 16.1.2001, p. 1).
([4]) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).
([5]) OJ L 79, 21.3.2013, p. 4.

(6) The European Union acceded to the Convention and the Protocol on the basis of Council Decision 2009/370/EC ([1]), and deposited the instrument of accession on 28 April 2009.

(7) In accordance with Decision 2009/370/EC, upon its accession to the Convention and the Protocol, the European Union made a declaration pursuant to Article 55 of the Convention, in relation to the application of its Articles 13 and 43 in situations where the debtor is domiciled in the territory of a Member State of the European Union. It also made a declaration pursuant to Article XXX(5) of the Protocol, declaring that its Article XXI will not apply within the European Union and Regulation (EC) No 44/2001 will apply to this matter for the Member States bound by the said Regulation or by any other agreement designed to extend its effects. It made no declaration in relation to Article X of the Protocol.

(8) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Decision 2009/370/EC and is not bound by it or subject to its application. It will be bound by the Convention and the Protocol only as a separate contracting party.

(9) In view of these circumstances and of the fact that the Convention and the Protocol entered into force on 1 August 2009 in all the Member States of the European Union other than Denmark, the Commission considers that their ratification by Denmark would not render the Agreement ineffective nor undermine the proper functioning of the system established by its rules, provided that Denmark makes declarations pursuant to Article 55 of the Convention and Article XXX(5) of the Protocol, similar to those made by the European Union. Under that same condition, it will not affect the conditions on which the European Union itself acceded to the Convention and the Protocol.

(10) Accordingly, the European Union should authorise Denmark to ratify the Convention and the Protocol. When ratifying the Convention and the Protocol, Denmark should make declarations on Articles 13 and 43 of the Convention and on Article XXI of the Protocol, along the lines of those made by the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Commission, on behalf of the European Union, authorises Denmark to ratify the Convention on international interests in mobile equipment and its Protocol on matters specific to aircraft equipment, adopted jointly in Cape Town on 16 November 2001.

Article 2

When ratifying the Convention and the Protocol, Denmark shall make the following declarations respectively:

'1. Pursuant to Article 55 of the Cape Town Convention, where the debtor is domiciled in the territory of a Member State of the European Union, Denmark will apply Articles 13 and 43 of the Convention for interim relief only in accordance with Article 35 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (*) as interpreted by the Court of Justice of the European Union in the context of Article 24 of the Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (**).

2. In accordance with Article XXX(5) of the Aircraft Protocol, Denmark will not apply Article XXI of that Protocol and Regulation (EU) No 1215/2012 will apply to this matter.

(*) OJ L 351, 20.12.2012, p. 1.
(**) OJ L 299, 31.12.1972, p. 32.'.

([1]) Council Decision 2009/370/EC of 6 April 2009 on the accession of the European Community to the Convention on international interests in mobile equipment and its Protocol on matters specific to aircraft equipment, adopted jointly in Cape Town on 16 November 2001 (OJ L 121, 15.5.2009, p. 3).

Article 3

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 10 August 2015.

For the Commission
Věra JOUROVÁ
Member of the Commission