Brexit

The "Danish" Model

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The Background

- The Maastricht Treaty 1992
- The Danish Referendum 1992
- The Edinburg Agreement 1993
- The New Referendum 1993
- The Amsterdam Treaty 1999
- The Brussels I Regulation 2000
  - The British Opt In
  - The Danish Opt Out
The Negotiations with the EU

- The Danish Application for Parallel Agreements
  - Brussels I
  - Brussels II
  - Service Regulation
  - Insolvency Regulation

- The Negotiations between COM and DK

- The Parallel Agreement of 19 October 2005
  - Brussels I in force in DK on 1 July 2007

- Transitional problems, the 10 new MS 2004
The Parallel Agreement

- Brussels I applies between the EU and DK on the basis of a Treaty; the Parallel Agreement, art. 2
- Negotiations on Amending Brussels I, art. 3
  - DK has 30 days after adoption to accept amendments
  - If amendments are not accepted, the Parallel Agreement ceases to exist within 90 days
- The CJEU, art. 6
  - Preliminary questions and Danish courts
  - Interpretation of the Parallel Agreement
The Parallel Agreement

- International negotiations, art. 5
  - DK has - in principle - exclusive external competence
  - DK cannot ratify or join agreements that affect or modify Brussels I
  - Denmark must coordinate its position with the EU and abstain from any action that can prejudice an EU Mandate
  - The present Hague Judgments Project negotiations

- Denmark and other Instruments
  - Rome I and Rome II
  - the 2005 Hague Choice-of-Court Agreement Convention
Brexit and Parallel Agreements

• The Legislative Framework
  • Only existing instruments in force
  • No possibility of Parallel Agreements for new instruments
  • DK in reality obliged 100% as a MS
  • The EU Interest in Parallel Agreements

• The Political Framework
  • The Danish JHA Referendum 2016
  • EU is less willing to negotiate Parallel Agreements
  • DK was and is a MS
  • UK is leaving ...