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European Contract Law

European Parliament resolution on the Communication from the Commission to the European Parliament and the Council — A more coherent European contract law — An action plan (COM(2003) 68 — 2003/2093(INI))

The European Parliament,

- having regard to the Communication from the Commission to the European Parliament and the Council (COM(2003) 68 — C5-0210/2003),
- having regard to its resolution of 26 May 1989 on action to bring into line the private law of the Member States ⁽¹⁾,
- having regard to its resolution of 6 May 1994 on the harmonisation of certain sectors of the private law of the Member States ⁽²⁾,
- having regard to its resolution of 15 November 2001 on the approximation of the civil and commercial law of the Member States ⁽³⁾,
- having regard to the conclusions of the Tampere European Council (15-16 October 1999), and in particular conclusion 39 thereof,
- having regard to the Council report of 16 November 2001 (No 13017/01) on the need to approximate Member States' legislation in civil matters,
- having regard to the working document of its Directorate-General for Research entitled 'The private law systems in the EU: discrimination on grounds of nationality and the need for a European Civil Code',
- having regard to Rule 47(2) and Rule 163 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the Internal Market (A5-0256/2003),
 - A. whereas the diversity of rules between the Member States hampers the proper operation of the internal market,
 - B. whereas only concrete measures organised in accordance with a detailed timetable, with consistent use of a common terminology, can lead to a coherent system of European contract law,

The Commission's action plan

1. Welcomes the fact that, in its 'common frame of reference' (paragraph 59 et seq.), the Action Plan initiates a common terminology for particular fundamental concepts and typical problems;
2. Notes, however, that the Commission has failed to agree on a concrete catalogue of measures accompanied by a detailed timetable for the next few years;
3. Calls on the Commission to encourage the development of the 'common frame of reference' as a priority and to tighten up the provisional timetable to 2008-9, so as not to delay the next steps towards its goal;

⁽¹⁾ OJ C 158, 26.6.1989, p. 400.

⁽²⁾ OJ C 205, 25.7.1994, p. 518.

⁽³⁾ OJ C 140 E, 13.6.2002, p. 538.

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4. Reiterates its call to be kept regularly informed by the Commission on progress made in working out the 'common frame of reference';
5. Intends to hold a conference and hearing in early 2004 together with the Commission;
6. Calls for a dialogue between the institutions to take place under each successive Council presidency, while continuing the political consultation process;
7. Regrets that the Commission did not act on Parliament's call to set up, by 2004, a data bank of national legal provisions and case law in the field of contract law, and reiterates that such a data bank is necessary in order to begin work on the 'common frame of reference' — the launching of a website (paragraph 87) is at any rate not the proper tool for this job;
8. Calls for users of the law such as judges, lawyers, notaries, undertakings and consumers to be involved in the process of elaborating the 'common frame of reference', and notes that the Commission has not hitherto taken much notice of such groups;
9. Notes that the Commission's earlier efforts to consult civil society, in particular the users of law and interested sectors, have been inadequate, particularly since the contributions submitted in the context of this consultation are not representative of all Member States;
10. Regrets that the development of e-commerce has not been sufficiently reflected in the Action Plan, even though studies in this area prove the need for a coherent European law on contract;
11. Regrets the lack of early action to produce optional instruments in certain sectors, such as consumer transactions and insurance, where substantial benefits could accrue both to assist the good functioning of the internal market and to increase intra-Community transactions and trade, and believes that early work in these areas would help to inform and develop the whole Action Plan process;
12. Consequently, calls on the Commission to complete the 'common frame of reference' by the end of 2006 and then speedily to begin to introduce it;

Next steps to be taken

13. Notes that one effective way of awakening the interest of the users of law — such as judges, lawyers, notaries, undertakings and consumers — in the 'common frame of reference', would be to make it available to them in a developed form as a body of standard contract terms;
14. Considers that, in order to facilitate cross-border trade within the internal market, it should be an early priority to proceed with the establishment of an optional instrument in certain sectors, particularly those of consumer contracts and insurance contracts, and therefore calls on the Commission as a matter of priority, whilst having regard to a high level of consumer protection and the integration of the appropriate mandatory provisions, to produce an opt-in instrument in the areas of consumer contracts and contracts of insurance;
15. Calls, therefore, for the elaboration of a body of rules based on the 'common frame of reference', to be offered to the contracting parties as an 'opt-in/opt-out' solution; considers, in other words, that the parties should initially have the option of using it voluntarily, and that it could later become binding;

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16. Further calls for the practical application of the 'common frame of reference' in conciliation proceedings, i.e. either through the existing 'European Extra-Judicial Network' or through a new European conciliation system in which only the 'common frame of reference' would be used;

17. Therefore calls once again on the Commission, in cooperation with the European Union's Official Publications Office in Luxembourg, to have the 'common frame of reference' published as soon as possible in an appropriate form, i.e. in bound paper form and in all Community languages;

18. Welcomes the fact that the Commission has announced its wish to increase the coherence of EU consumer law (paragraphs 73 and 74);

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19. Instructs its President to forward this resolution to the Council and the Commission.

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Air service agreements between Member States and third countries *I**

European Parliament legislative resolution on the proposal for a European Parliament and Council regulation on the negotiation and implementation of air service agreements between Member States and third countries (COM(2003) 94 — C5-0065/2003 — 2003/0044(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 94) ⁽¹⁾,
- having regard to Article 251(2) of the EC Treaty and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0065/2003),
- having regard to Rule 67 of its Rules of Procedure,
- having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinion of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0263/2003),

1. Approves the Commission proposal as amended;
2. Calls on the Commission to refer the matter to Parliament if it intends to amend the proposal substantially or replace it with another text;

⁽¹⁾ Not yet published in OJ.