

Wednesday 3 September 2008

European contract law

P6_TA(2008)0397

European Parliament resolution of 3 September 2008 on the common frame of reference for European contract law

(2009/C 295 E/09)

The European Parliament,

- having regard to its resolution of 12 December 2007 on European contract law ⁽¹⁾,
 - having regard to its resolution of 7 September 2006 on European contract law ⁽²⁾,
 - having regard to its resolution of 23 March 2006 on European contract law and the revision of the *acquis*: the way forward ⁽³⁾,
 - having regard to its resolutions of 26 May 1989 ⁽⁴⁾, 6 May 1994 ⁽⁵⁾, 15 November 2001 ⁽⁶⁾ and 2 September 2003 ⁽⁷⁾,
 - having regard to the Commission's report of 25 July 2007 entitled 'Second Progress Report on the Common Frame of Reference' (COM(2007)0447),
 - having regard to the position defined by the Justice and Home Affairs Council of 18 April 2008,
 - having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas the academic Draft Common Frame of Reference (DCFR) ⁽⁸⁾ was submitted to the Commission at the end of 2007,
- B. whereas the DCFR is currently undergoing a process of evaluation by a network of several academic groups, including the 'Association Henri Capitant des amis de la culture juridique française' and the 'Société de législation comparée', which have already published 'Principes contractuels communs' and 'Terminologie contractuelle commune' ⁽⁹⁾,
- C. whereas the Commission has launched an internal selection process with the aim of identifying which parts of the DCFR will be integrated into a forthcoming document, e.g. a Commission White Paper on a Common Frame of Reference (CFR),
- D. whereas the DCFR is merely an academic document and the possible selection of what parts of the DCFR are to be integrated into the forthcoming Commission document is a highly political exercise,

⁽¹⁾ Texts Adopted, P6_TA(2007)0615.

⁽²⁾ OJ C 305 E, 14.12.2006, p. 247.

⁽³⁾ OJ C 292 E, 1.12.2006, p. 109.

⁽⁴⁾ OJ C 158, 26.6.1989, p. 400.

⁽⁵⁾ OJ C 205, 25.7.1994, p. 518.

⁽⁶⁾ OJ C 140 E, 13.6.2002, p. 538.

⁽⁷⁾ OJ C 76 E, 25.3.2004, p. 95.

⁽⁸⁾ Von Bar, Clive, Schulte-Nölke et al. (eds.), *Principles, Definitions and Model Rules of European Private Law — Draft Common Frame of Reference (DCFR)*, 2008.

⁽⁹⁾ B. Fauvarque-Cosson, D. Mazeaud (dir.), collection 'Droit privé comparé et européen', Volumes 6 and 7, 2008.

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1. Welcomes the presentation of the DCFR and awaits the final academic DCFR to be submitted to the Commission by the end of December 2008;
 2. Calls on the Commission to present a precise and transparent plan as to how the selection process leading to the Commission document will be organised and coordinated, in particular with regard to all Directorates-General (DGs) involved;
 3. Calls on the Commission to ensure that the DCFR is made available in the greatest possible number of relevant languages in order to ensure its accessibility for all interested stakeholders;
 4. Calls on the Commission to consider assigning the project to DG Justice, Freedom and Security with the full involvement of all other relevant DGs, since the CFR goes well beyond consumer contract law, and to make the necessary materials and human resources available;
 5. Points out that the Commission document will be the basis for the decision of the European Institutions and all interested stakeholders on the future purpose of the CFR, its content and legal effect, which may range from a non-binding legislative tool to the foundation for an optional instrument in European contract law;
 6. Considers that, regardless of the future shape of the CFR, measures must be put in place to ensure that it is regularly updated in order to reflect changes and national developments in contract law;
 7. Points out that, when taking any decision about the content of the CFR, the Commission should bear in mind the Council's statement of 18 April 2008 that the CFR should be 'a tool for better lawmaking', forming 'a set of non-binding guidelines to be used by lawmakers at Community level';
 8. Suggests that, if this is the case, the CFR should be as wide-ranging as possible and that there may be no need to exclude any content or materials at this stage;
 9. Emphasises once again that the outcome of the recent CFR workshops should be reflected in any selection process; emphasises that further consultations should be broad and guarantee a balanced input of all relevant stakeholders;
 10. Suggests that, if used as a non-binding legislative tool, the relevant parts of the CFR should be appended to any future legislative proposal or communication made by the Commission which touches on contract law, so as to ensure that this is considered by the Community legislature;
 11. Points out that, when taking a decision about the content of the CFR, the Commission should bear in mind that the CFR could go well beyond a mere legislative tool and could result in an optional instrument;
 12. Suggests that, if the future format of the CFR is likely to be that of an optional instrument, it should confine itself to those areas where the Community legislature has been active or is likely to be active in the near future, or which are closely linked to contract law; suggests that any optional instrument should be based on the DCFR; considers that, in all instances, care should be taken to ensure that the overall coherence of the optional instrument is not jeopardised by the selection process;
 13. Insists that Parliament should be fully consulted and involved in any selection process leading to the Commission's forthcoming document on the CFR;
 14. Instructs its President to forward this resolution to the Council and the Commission.
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