

EUROPEAN CONTRACT LAW - *Council conclusions*

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION,

HAVING REGARD TO

1. The Commission's First Annual Progress Report on European Contract Law and the Acquis Review ¹.

NOTES

2. The outcome of the Conference 'European Contract Law: Better Lawmaking through the Common Frame of Reference', held in London on 26 September 2005.

RECALLS

3. Its Resolution of 22 September 2003 ², in which it considered that "community law rules, in particular in the area of contract law, should be consistent and ensure proper transposition into national law. In this context, the Common Frame of Reference ... could contribute to improving the quality and consistency of both existing and future Community legislation in this area". It further considered that "it would be useful to take appropriate and proportionate measures to facilitate the conclusion of cross-border contracts", and that "... the Common Frame of Reference should correspond to the realities of the internal market and, therefore, to the practical needs of economic operators and consumers".
4. The Commission's Communication to the European Parliament and the Council of 11 October 2004 entitled 'European Contract Law and the revision of the acquis: the way forward' ³.

1 13056/05.

2 OJ C 246, 14.10.2003, p.1.

3 13802/04.

28-29.XI.2005

5. The adoption of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (the 'Unfair Commercial Practices Directive'), which for the first time introduces a horizontal duty on businesses not to trade with consumers unfairly, as opposed to the vertical approach hitherto predominant in the consumer acquis.
6. The Commission's Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 25 October 2005 entitled 'Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment'¹.

RECOGNISES

7. The unique opportunity afforded by the proposed Review and the introduction of the Unfair Commercial Practices Directive to update and modernise the consumer acquis.
8. The importance of preliminary work, both in the area of contract law for those six Directives² primarily concerned with business-to-consumer contracts, and in gathering evidence as to the functioning of the existing acquis, to the success of the Review.

WELCOMES

9. In this regard, the work done so far on the Common Frame of Reference, particularly the involvement of Member States and stakeholders, and the Commission's commitment, set out in the Annual Progress Report, to adapt the process and conduct of the workshops to respond to the needs of the Council and the European Parliament and of stakeholders.
10. The Commission's repeated reassurance that it does not intend to propose a 'European Civil Code' which would harmonise contract laws of Member States³, and that Member States' differing legal traditions will be fully taken into account.
11. The prioritisation of the Review of the Consumer Acquis as an integral part of the Better Regulation agenda, meaning that those parts of the Common Frame of Reference directly relevant to the Review will be rescheduled and treated at an earlier stage than previously envisaged

1 COM(2005) 535.

2 Directives 85/577, 90/314, 93/13, 94/47, 97/7, and 99/44.

3 13802/04, p. 8.

28-29.XI.2005

14155/05 (Presse 287)

12. The Commission's proposed approach to the consultation of Member States and stakeholders, including consumer and business groups, that will be essential to a successful Review.

EMPHASISES

13. The need for work to focus on practical issues in order to deliver real benefits to consumers and business; in this regard, the need to acknowledge the distinction between business-to-consumer and business-to-business contracts.
14. The need for the Consumer Acquis to be fit for purpose, to protect the legal and economic interests and rights of consumers, to enhance the confidence of the EU's citizens in the Internal Market, and to promote the cross-border provision of goods and services, thus guaranteeing a high level of consumer protection.

INVITES THE COMMISSION

15. To come forward as soon as possible with a timetable, a detailed description of the process, and proposals for updating and modernising the Consumer Acquis and also to reprioritise accordingly the work on the Common Frame of Reference. The Council also looks forward to receiving more information from the Commission on the Review of the Consumer Acquis during 2006.
16. To keep the Council and European Parliament fully informed and consulted about its work in this area, to ensure maximum political engagement.

INVITES THE MEMBER STATES

17. To co-operate with and help the Commission's work on gathering evidence concerning the implementation and functioning of the existing Consumer Acquis.
18. To actively participate in the Commission's work on the Common Frame of Reference and encourage the contributions of stakeholders to the ongoing discussions at EU level."