

Letter dated:
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From:
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Ministry of Justice
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To:
European Commission
Brussels

Subject: Action Plan on European Contract Law
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We welcome the action plan, and the fact that the Commission is continuing the process of coordination which has been started.

We support the aim of the plan, namely to bring about a more coordinated European contract law and thereby enable the internal market to function more effectively. It is to be welcomed that the plan highlights the importance of greater coordination in European contract law, both for consumers and for small and medium-sized businesses.

As well as dealing with appropriate sector-specific measures, the action plan also basically looks at three ways of tackling the problems which can arise in the field of contract law. It first of all stresses the need to improve the quality of the Community *acquis*. Secondly, it draws attention to the need to promote the elaboration of EU-wide standard contract terms. Finally, it calls for further reflection on the suitability of non-sector-specific measures, such as optional instruments.

Sweden agrees that the creation of a joint reference framework setting out common principles and terminology is an important element in any efforts to make the current and future *acquis* as effective as possible. As is stated in the action plan, the quality of the Community *acquis* should be improved.

The Member States should be allowed to take an active part in creating the joint reference framework. There should be no pressure to complete the work quickly. In the long run, a great deal can be achieved by allowing time for the necessary exchange of views.

The ongoing work should focus on making the current and future *acquis* as effective as possible, and on promoting the elaboration of standard contract clauses at EU level.

As regards the work to draw up standardised contract terms, Sweden would like to stress that the directives referred to should not be so restrictive that they hinder rather than encourage the elaboration of common contractual terms. However, the directives should of course also not encroach on existing contractual freedom.

Looking in more detail at the need for any kind of non-sector-specific measures may also help the process along. The proposal for an optional instrument, however, is hugely ambitious, and there is not yet any reason to begin such work in the foreseeable future. It is doubtful whether such an instrument could be devised, and the need for one in the first place is also questionable.

As far as existing needs are concerned, a harmonisation of contract law at international level has already been initiated. Here particular mention can be made of the Convention on the International Sale of Goods (CISG) and Unidroit's "Principles of International Commercial Contracts". Before any non-sector-specific measures are introduced, the Commission should arrange for a detailed look at possible contradictions between regional and global harmonisation.

As is stated in the action plan, there is a clear link between the measures it proposes and the conversion of the 1980 Rome Convention into a Community instrument. It is important that there should be coordination in this respect.

It would be useful if the Commission were to submit to the Council regular reports on the progress with this work. The Council's Committee on Civil Law Matters should have a significant role to play here.

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