Resolution on the common frame of reference for European contract law

2008/2615(RSP) - 03/09/2008 - Text adopted by Parliament, single reading

Following the debate which took place during the sitting of 1 September 2008, the European Parliament adopted by 619 votes to 28 with 39 abstentions, a resolution tabled by the Committee on Legal Affairs on the common frame of reference for European contract law.

To recall, the academic Draft Common Frame of Reference (DCFR), which was submitted to the Commission at the end of 2007, is currently undergoing an evaluation process by a network of several academic groups. 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). Parliament points out that the possible selection of what parts of the DCFR are to be integrated into the forthcoming Commission document is a highly political exercise.

Members welcome the presentation of the DCFR and call 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 DGs involved. The DCFR must be made available in the greatest number of relevant languages in order to make certain its accessibility for all interested stakeholders. The Commission should 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.

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. The latter may range from a non-binding legislative tool to the foundation for an optional instrument in European contract law. The Commission needs to bear in mind the Council's recent statement that the CFR should be a tool for better lawmaking forming a set of non-binding guidelines to be used at Community level. If this is the case, Parliament suggests that the CFR should be as wide as possible and that there may be no need to exclude any content or materials at this stage.

If used as **a non-binding legislative tool**, Members suggest that 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 legislator.

If, however, 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 legislator has been active or is likely to be active in the near future, or which are closely linked to contract law. Parliament suggests that any optional instrument should be based on the DCFR, with the possible exclusion of Chapters 3 to 6 of Part C of Book IV on Specific contracts and the rights and obligations arising from them, Book V on Benevolent intervention in another's affairs, and, Book X on Trusts. In all instances, care should be taken to ensure that the overall coherence of the optional instrument is not jeopardised by the selection process.

Lastly, Parliament insists that it should be fully consulted and involved in any selection process leading to the Commission's forthcoming document on the CFR.