Civil and commercial law: alignment, contract law

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The purpose of this communication is to initiate an open, wide-ranging and detailed debate with the participation of the institutions of the European Community as well as of the general public, including businesses, consumer associations, academics and legal practitioners. The approximation of certain specific areas of contract law at EC level has covered an increasing number of issues. The EC legislator has followed a selective approach adopting directives on specific contracts or specific marketing techniques where a particular need for harmonisation was identified. At this stage, the European Commission is interested in gathering information on the need for farther-reaching EC action in the area of contract law. The Commission is seeking inforamtion as to whether problems result from divergences in contract law between Member States and if so, what. In particular, the Communication asks whether the proper functioning of the internal market may be hindered by problems in relation to the conclusion, interpretation and application of cross-border contracts. Also, the Commission is interested in whether different national contract laws discourage or increase the costs of cross-border transactions. The Communication also seeks view on whether the existing approach of sectoral harmonisation of contract law could lead to possible inconsistencies at EC level, or to problems of non-uniform implementation of EC law and applciation of national transposition measures. If concrete problems are identified, the Commission would also like to receive views on what forms of solutions should or could take. In order to assist in defining possible solutions, the Communication includes a non-exhaustive list of possible solutions. The areas concerned by this Communication include contracts of sale and all kind of service contracts, including financial services. General rules on performance, non-performance and remedies are an indispensable basis for these contracts and are therefore also covered. Additionality, rules on general issues such as the formation of a contract and its validity and interpretation are also essential. Furthermore, because of the economic context, rules on credit securities regarding movable goods as well as the law unjust enrichment may also be relevant. Lastly, the aspects of tort law linked to contracts and to its other features relevant to internal market should also be taken into consideration insofar as they are already part of existing EC law.