Civil and commercial law, private international law: approximation of the procedures. Green papers

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The European Commission has adopted a Green Paper in order to launch a wide-ranging consultation of interested parties on a number of legal questions on the conversion of the Rome convention of 1980 on the law applicable to contractual obligations into a Community instrument and its modernisation. Expanding trade and travel entails an increasing risk that European citizens and companies established in a Member State may be involved in a dispute of which all the elements are not confined to the State where they have their habitual residence. Parties are often discouraged from asserting their rights in a foreign country by the incompatibility or complexity of national legal and administrative systems. This applies particularly to private individuals or small businesses, which generally do not have the financial resources to secure the services of an international network of lawyers. In the EU, however, there cannot be a genuine internal market, envisaging free movement of goods, persons, services and capital, without a common law enforcement area in which all citizens can assert their rights not only in their home country but also in other Member States. A European set of rules on the law applicable to contractual obligations exists already in the form of an international convention, the "Rome Convention of 1980". It contains rules for the determination of the applicable law to contracts with cross-border elements. However, a shortcoming of this Convention is the lack of a judicial body that assures its uniform interpretation in the various Member States. Thus the Commission now launches a discussion on whether a conversion of this Convention - the last remaining legal instrument of this kind in private international law at EU level - into a Community instrument is desirable. Such conversion would mean that the European Court of Justice in Luxembourg becomes competent to interpret the provisions of this piece of legislation, if asked for by national courts by virtue of a preliminary question. Such conversion could also be considered as an occasion to modernise the former convention of 1980. This may include issues such as a re-shaped consumer protection or the regime for employment contracts that have a cross-border element. Throughout this debate, the Commission is committed to a close contact to business and civil society. Interested parties are asked to send answers to the questions listed, as well as comments, to the European Commission before 15/09/03.