European contract law: action plan

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PURPOSE : to present an Action Plan for a more coherent European contract law. CONTENT : the Action Plan presents the Commission's conclusions on the consultative process launched in its Communication dated July 2001 on European contract law. The Plan confirms that there is no need to abandon the current sector-specific approach. It also summarises the problems identified during the consultation process, which concern the need for uniform application for EC contract law as well as the smooth functioning of the internal market. This Action Plan suggests a mix of non-regulatory and regulatory measures in order to solve those problems. In addition to appropriate sector-specific interventions, this includes measures: - to increase the coherence of the EC acquis in the area of contract law, - to promote the elaboration of EU-wide general contract terms, and - to examine further whether problems in the European contract law area may require non-sector-specific solutions such as an optional instrument. A common frame of reference, establishing common principles and terminology in the area of European contract law is discussed in the paper. The Commission sees this common frame of reference as an important step towards the improvement of the contract law acquis. It will be a publicly accessible document that should meet the needs and expectations of the economic operators in the internal market. If the common frame of reference is widely accepted as the model in European contract law which best corresponds to the needs of the economic operators, it may be taken as a point of reference by national legislatures inside the EU and possibly in appropriate third countries. Thus the frame of reference might diminish divergences between contract laws in the EU. The objectives of the common frame of reference are threefold: - the Commission may use it in the area of contract law when the existing acquis is reviewed and new measures proposed. It should provide for best solutions in terms of common terminology and rules. These include the definition of fundamental concepts such as "contract" or "damage" and of the rules which apply in the case of the non-performance of contracts; - it could become an instrument in achieving a higher degree of convergence between the contract laws of the EU Member States and possibly appropriate third countries; - the Commission will base its reflections on whether non-sector-specific measures such as an optional instrument may be required to solve problems in the area of European contract law on the common frame of reference. In order to promote the elaboration by interested parties of EU-wide general contract terms, the Commission intends to facilitate the exchange of information on existing and planned initiatives both at a European level and within the Member States. Furthermore, the Commission intends to publish guidelines, which will clarify to interested parties the limits that apply. Finally, the Commission expects comments as to whether some problems may require non-sector-specific solutions, such as anoptional instrument in the area of European contract law. The Commission intends to launch a reflection on the opportuneness, the possible legal form, the contents and the legal basis for possible solutions.