European contract law and the revision of the acquis: the way forward

2005/2022(INI) - 23/03/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Klaus-Heiner **LEHNE** (EPP-ED, DE) on European contract law and the revision of the acquis. (Please see the summary of 23/02/2006.)

Parliament stated in the recitals that, even though the Commission denied that this is its objective, it was clear that many of the researchers and stakeholders working on the project believe that the ultimate long-term outcome will be a European code of obligations or even a full-blown European Civil Code. In any event, the project is by far the most important initiative under way in the civil law field. Even if the initiative in its present form were limited to rationalising and tidying up the acquis in the field of consumer protection and to producing optional standard contract terms and conditions, it was essential that the political authorities had a proper input into the process.

Underlying principles and objectives: Parliament repeated its conviction that a uniform internal market cannot be fully functional without further steps towards the harmonisation of civil law. It called on the Commission to exploit straightaway the ongoing work with a view to using the results firstly towards the revision of the acquis in the field of civil law, and subsequently towards developing a system of Community civil law.

Substantive law issues: the Commission is asked to distinguish between legal provisions applicable to the business-to-business sector and those applicable to the business-to-consumer sector, and to separate the two systematically. Parliament highlighted the importance of taking into account the fundamental principle of freedom to conclude a contract, particularly in the business-to-business sector, and also highlighted the importance of taking into account the European social model when harmonising contract law.

Parliament noted that with over-detailed legal provisions on individual aspects of contract law there is a danger of being unable to react flexibly to altered legal circumstances. It favoured the adoption of general regulations including legal concepts which are not precisely defined, thus giving the courts the necessary margin of discretion in arriving at their judgments.

Procedural issues: Parliament called on the Commission to submit without delay a clear legislative plan setting out the future legal instruments by which it aimed to bring the results of the work of the research groups and the CFR-Net into use in legal transactions. The Commission should keep Parliament continually informed, at least in quarterly reports, of the results obtained and progress of the work of the research groups and of the Network. The resolution stressed the importance of Parliament’s need for information and consultation.