


Open Letter to French President on the European Intrusion into French Private International Law

Some sixty leading French jurists (including Prof. Pierre Mayer of the  Pantheon Sorbonne) have, controversially, signed an open letter to President Jacques Chirac on the alleged illegitimacy of the European Union's activities in the field of private international law.

Jacco Bomhoff (*of Leiden University and the Comparative Law Blog*) has very kindly forwarded to us a translation of the extraordinary letter's key claims:

In a democracy organised on the basis of the principles of the rule of law, a legal provision is legitimate only if emanating from an institution that has the authority to prescribe it. (...) Nevertheless, and despite ever louder objections from a growing number of leading jurists in Europe, the Community Institutions are relentless in taking liberties with this fundamental precept. Now, with the proposal for a Regulation on the law applicable to contractual obligations (Rome I), they seem resolved to ignore this notion definitively from now on.

The principal allegation by the signatories, Bomhoff writes,

...seems to be their fear that the new Regulation – in contrast to the existing 1980 Convention – will offer too little scope for the application of protective mandatory rules of the forum (cf. art. 7 of the Convention). This, the professors suggest, is an element of the Commission's grand plan to get rid of the great majority of mandatory rules in contract law generally (for, they argue, if cross-border contracts are so liberated, purely internal contracts cannot stay behind). This approach "constitutes a grave attack on democracy as it robs national legislatures of all power".

That, however, is not the end of the story. Some eighty other French academics have signed a counter-letter (including Paul Lagarde, Hélène Gaudemet-Tallon and Catherine Kessedjian), stating that they denounce the

dramatic, even apocalyptic, and therefore totally disproportionate tone...adopted by their colleagues.

Comments, especially by our French readers, are most welcome. Many thanks to Jacco Bomhoff for the tip-off. A rough translation of the original post on the Coullises de Bruxelles website can be found [here](#).