

Rome I: Parliament's Compromise Amendment on Consumer Contracts

A compromise amendment to Art. 5 of the Commission's Rome I Proposal has been presented by the Rapporteur *Ian Dumitrescu* in the last meeting of the EP's Committee on Legal Affairs (JURI). The amendment seems to take into account a number of concerns recently raised on the functioning of the conflict rule on consumer contracts (see our recent posts on the note by the Luxembourg delegation, the document from the Commission on certain financial aspects relating to the application of Articles 4 and 5 and the German position on services supplied to the consumer exclusively in a country other than that of his habitual residence).

The compromise amendment is partly a redraft of the Commission's proposal, with few relevant modifications:

- **the protective rule is not limited to consumers who are habitually resident in a Member State;**
- **the parties may choose the law applicable to the contract pursuant to Art. 3, but such a law "may not have the effect of derogating" from the law of the consumer's habitual residence** (new para. 2a: compare this provision with current Art. 5(2) of the Rome Convention, according to which "a choice of law made by the parties shall not have the result of depriving the consumer of the protection afforded to him by the mandatory rules of the law of the country in which he has his habitual residence");
- according to Art. 5(2) of the proposed amendment, the protective rule applies if "(a) the professional exercises his trade or profession in the Member State in which the consumer has his habitual residence; (b) or **the professional, by means of deliberate acts, directs his activity** towards the Member State in question or a number of countries including the Member State in question";
- **the list of contracts exempted from the protective regime is enlarged** (Art. 5(3)), including

(a) a contract for the supply of services where the services are to be supplied to the consumer exclusively in a country other than that in which he has his habitual residence;

[...]

[new] *(d) contracts concluded on a financial market and contracts for the purchase, by way of subscription, of shares, bonds or other newly issued securities;*

[new] *(e) contracts relating to the supply of investment services or financial instruments as defined by Directive 2004/39/EC.*

The initial Draft Report under discussion in the JURI Committee, together with two previous sets of amendments, can be found in our previous post [here](#).

The adoption of the Report on the Rome I Proposal is expected in the EP's JURI Committee in one of the forthcoming meetings. According to current forecasts, the vote at first reading in the Parliament's plenary session is scheduled on 10 October 2007 (see the Rome I OEIL page).