

Draft "Rome I" Report by European Parliament Legal Affairs Committee

The draft report on the "Rome I" Regulation (which proposes to convert the Rome Convention on the law applicable to contractual obligations into a Community Regulation) has been produced by rapporteur Maria Berger, as part of the European Parliament Legal Affairs Committee (JURI), in response to the European Commission's original proposal on 15th December 2005.

The report is publicly available from the JURI website. JURI will meet on 11th September 2006 to consider the report, and potentially map out a timetable for amendments.

There are some key changes to the Commission's proposal in JURI's report. The rapporteur summarises them thus:

The amendments contained in this report are designed to improve the text as proposed by the Commission in the light of the various submissions that have been made to the rapporteur and with a view to making it more consistent with the Rome II project as it stands at present. She has concentrated particularly on certain key provisions, such as Article 4 (Applicable law in the absence of choice) and Article 6 (Individual employment contracts), where she advocates an approach closer to that adopted by Parliament in its first reading of Rome II and to the conflict-of-law rules of non-EU jurisdictions. Your rapporteur has also sought to distinguish between internal and international mandatory rules by amending Article 8 on the ground that the various references to "mandatory rules" in Articles 3(5), 6(1), 8 and 10(1) could give rise to confusion.

The amendment to Article 4 reintroduces the "closest connection" rule (which was conspicuously absent from the Commission's proposal), supplemented with a number of presumptions for particular types of contract (thus bringing it more in line with the current Rome Convention, and also more closely mirroring the provisions of the "Rome II" Regulation). Significantly, the draft report also deletes Article 8(3), which gives effect to the mandatory (overriding) rules of another

country with which the situation has a close connection. It will be remembered that Germany, Ireland, Latvia, Luxembourg, Portugal, Slovenia and the United Kingdom all entered a reservation for the corresponding provision in the Rome Convention (Article 7(1)). It may be this change, as much as any other, that will entice the UK to opt back in.

As always, comments on the draft report are very welcome.