

Note from the Luxembourg Delegation on Rome I Proposal

A note from the Luxembourg delegation on the Proposal for a Regulation on the law applicable to contractual obligations ("Rome I") which has appeared on the agenda for the Competitiveness Council meeting on 21 and 22 May 2007 deals rather critically with Article 5 of the planned regulation.

Here an excerpt:

The Luxembourg Government is very concerned about the negative impact on competitiveness of the instruments of private international law which are currently being converted into Community instruments. In particular, it would like to draw the attention of the Competitiveness Council to the proposal for a Regulation on the law applicable to contractual obligations ("Rome I", 6935/07), which is currently under discussion in the Justice and Home Affairs Council.

Article 5 of the proposal has the effect, in certain cases, of depriving the parties of the freedom to choose the law applicable to business-to-consumer cross-border contracts. This changes the current situation under the Rome Convention, which lays down different protective rules and reflects a fair balance between the needs of businesses and those of consumers. This substantial change would have warranted an impact assessment by the Commission. However, the economic impact of this proposal has not been evaluated. Its consequences for the internal market and for consumers have not been analysed.

[...]

With a view to the Justice and Home Affairs Council meeting on 12 and 13 June 2007, it would be appropriate for the authorities concerned in all the Member States to be made aware of the negative consequences of this proposal for the internal market, for businesses and for European consumers. No decision should be taken which prejudices competition. In this context the Luxembourg delegation would recall the instruction given by the European Council in March 2003 that "the Competitiveness Council should be effectively consulted within the Council's decision-making processes on proposals considered likely to have

substantial effects on competitiveness”.

The complete note can be found [here](#).

Many thanks to Dr. Jan von Hein, MPI Hamburg for the tip-off.