

Rome I: Statements by the Council and the Commission on Insurance Contracts and by the French Delegation on Consumer Contracts

Following our post on the release of the final text of the Rome I Regulation, an internal document by the *General Secretariat of the Council* to the *Permanent Representatives Committee* (COREPER) confirms that the new Regulation will be soon adopted by the Council (doc. n. 7689/08 of 7 April 2008):

*5. The Permanent Representatives Committee is therefore asked to confirm agreement and **advise the Council to:***

- *adopt the Regulation, as set out in PE-CONS 3691/07 JUSTCIV 334 CODEC 1401, as an “A” item at a forthcoming meeting;*
- *decide to enter in the minutes of that meeting the statements set out in the addendum to this note.*

After being signed by the President of the European Parliament, the President of the Council and the Secretaries-General of the two institutions, the legislative act will be published in the Official Journal of the European Union.

Quite surprisingly, as regards the participation of the United Kingdom in the adoption of the Regulation, a footnote of the document states:

In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland have given notice of their wish to take part in the adoption and application of this Regulation.

This is probably a mistake, since the United Kingdom has not so far officially opted in (see Recital n. 45 of the Regulation), and a consultation paper on the matter was launched last week by the Ministry of Justice (see our post here).

[**UPDATE on the position of the United Kingdom:** a revised version of the document has been released – doc. n. 7689/1/08 REV 1 of 9 April 2008 -, where it is clearly stated that, at present, “[i]n accordance with Articles 1 and 2 of the Protocol [...] and without prejudice to Article 4 of the said Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application”]

Two statements are set out in the Addendum (doc. n. 7689/08 ADD 1 of 7 April 2008): one by the Council and the Commission, relating to the new conflict rule **on insurance contracts** (Art. 7 of the new Regulation), and one by the French delegation, **on the consistency between the rule on applicable law in consumer contracts** (Art. 6) **and future revisions of Brussels I Regulation** as regards the provisions relating to jurisdiction in the same matter (Section 4, Articles 15-17 of Brussels I Reg.). Here’s the text:

DECLARATION BY THE COUNCIL AND THE COMMISSION RELATING TO THE LAW APPLICABLE TO INSURANCE CONTRACTS

The Council and the Commission note that the rules contained in Article 7 essentially reflect the legal situation as regards applicable law as presently included in the insurance Directives. Any future substantive revision of the present regime should take place in the context of the review clause of this Regulation.

DECLARATION BY THE FRENCH DELEGATION RELATING TO ARTICLE 6 OF ROME I ON THE LAW APPLICABLE TO CONSUMERS

In view of the importance of conflict-of-law rules in international private law, and in order to achieve the objective, laid down in Article 153 of the EC Treaty, of ensuring a high level of consumer protection within the Community, France wishes to state that, in the revision of Regulation 44/2001 EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, the provisions relating to jurisdiction (section 4 of Brussels I) must be consistent with Article 6 of the Regulation applicable to contractual obligations (Rome I), concerning the law applicable to consumer contracts.