

JURI Report



The newsletter of the European Parliament Legal Affairs Committee

January 2011

THIS IS NEW

AT THIS MEETING

The highlight of the forthcoming meeting of the Committee on Legal Affairs is the vote on the draft opinion on the Commission proposal for a Directive on Consumer Rights. The proposal, adopted back in 2008, has been discussed extensively in the Committee since the previous legislature. In addition to the 93 amendments contained in Diana Wallis' draft opinion and the 329 amendments tabled by Members, a number of compromises will be put to the vote. The main committee, the Committee on Internal Market and Consumer Protection, is currently scheduled to vote the following week, on 26 January.

The Committee will also consider the Commission [proposal](#), made at the request of twelve Member States, for a Council decision authorising enhanced cooperation in the area of the creation of unitary patent protection. Parliament's consent is necessary under the Treaties in order for the Council to be able to authorise the enhanced cooperation. This is the second time that the Committee is faced with such a situation, the previous one having concerned the law applicable to divorce and having been approved last year. It is worth noting that, on this occasion, the Commission has not yet adopted the proposals implementing the envisaged enhanced cooperation.

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EXTRAORDINARY MEETING OF 20 JANUARY 2011

1. ADOPTION OF THE DRAFT AGENDA**2. ANNOUNCEMENTS OF THE CHAIRMAN**

3. APPROVAL OF THE MINUTES OF THE MEETING OF:

- 1-2 December 2010
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VOTE

4. CONSUMERS RIGHTS

Procedure	2008/0196 (COD)
Basic doc	COM(2008)0614
Opinion Comm./ rapporteur for opinion (associated committees)	JURI / Diana WALLIS,
Administrator respons.	Leticia ZULETA DE REALES
Lead Comm./rapporteur	IMCO / Andreas SCHWAB

PRELIMINARY TIMETABLE

Exchange of views	28.04.2010
Presentation of the draft opinion	02.09.2010
Deadline for amend.	12.10.2010 at noon
Exam of amend.	28.10.2010
Adoption JURI	20.1.2011

The Commission proposal for a directive on consumer rights seeks to merge four directives which provide for consumer contractual rights (i.e. Directive 85/577/EEC on contracts negotiated away from business premises, Directive 93/13/EEC on unfair terms in consumer contracts, Directive 97/7/EC on distance contracts, Directive 99/44/EC on consumer sales and guarantees)

into a single horizontal instrument regulating common aspects in a systematic fashion, simplifying and updating the existing rules, removing inconsistencies and closing gaps. It is based on a horizontal approach, aims at better regulation and simplification and opts for full harmonisation. The proposal covers core aspects of business-to-consumer contracts and has to be seen in the broader context of the ongoing discussion on a Common Frame of Reference (CFR) for European Contract Law. The general provisions on consumer contract law are at the heart of existing contract law at Union level and will have a great impact on the systems of civil law of the Member States.

A working document was considered by the Legal Affairs Committee at the end of the last legislative term.

A second working document was discussed by the JURI Committee in April and on 2 September the rapporteur presented her draft opinion.

At the request of the Committee on Legal Affairs the following documents were commissioned by Parliament:

- a [study](#) by Timothy Q. de Booy, Dr. Chantal Mak and Prof. Dr. Martijn W. Hesselink, Centre for the Study of European Contract Law, University of Amsterdam, entitled: *"A comparison between the provisions of the draft Common Frame of Reference and the European Commission's proposal for a Consumer Rights Directive - How the CFR can improve the Consumer Rights Directive"*;
- a [study](#) by Prof. Dr. Hans Schulte-Nölke (in co-operation with Dr Christoph Busch, Daniel Reiner and Martin Werneburg), European Legal Studies Institute, University of Osnabrück, on: *"The Potential Impact of the Consumer Rights Directive on the Member States' Contract Law - Side*

effects on the Member States' general contract law or general sales law";

- a [note](#) by Prof. Geraint Howells (University of Manchester) and Prof. Emeritus Norbert Reich on: "*Extent of harmonisation in Consumer Contract Law*".

The Committee on Legal Affairs is producing an opinion for the Committee on Internal Market and Consumer Protection under Rule 50 of the Rules of Procedure. Both Committees have agreed on working under joint competence for Chapters I and IV. JURI has exclusive competence for Chapter V, Annexes II and III and the corresponding recitals.

In addition to the 93 amendments already contained in the rapporteur's draft opinion, 329 amendments have been tabled by Members.

At this meeting, the Committee will vote.

5. PROPOSAL FOR A COUNCIL DECISION AUTHORISING ENHANCED COOPERATION IN THE AREA OF THE CREATION OF UNITARY PATENT PROTECTION

Procedure	2010/0384(NLE)
Basic doc	COM(2010)0790
Legal basis	Art. 329(1) TFEU
Rapporteur	Klaus-Heiner LEHNE
Administrator respons.	Ewa Wojtowicz

PRELIMINARY TIMETABLE

Consideration of draft report	20.01.2011
Deadline for amendments	none
Adoption JURI	27.01.2011
ADOPTION PLENARY	February 2011

The current procedure marks a new stage in the long saga on the adoption of the Community/European Union patent. In 2000 the Commission adopted a proposal for a Council regulation on the Community patent based on Article 308 TEC, which required consultation with Parliament and a unanimous vote in the Council. On 10 April 2002 Parliament approved the Commission proposal. The negotiations in the Council did not achieve any result; however on 4

December 2009 the Council adopted political conclusions on the creation of the EU patent.

On 1 December 2009, the Lisbon Treaty introduced Article 118 TFEU as a new legal basis for the adoption of the EU patent as a European intellectual property right. That legal basis calls for the ordinary legislative procedure for the adoption of such rights with a separate procedure required for the establishment of the language arrangements (in accordance with Article 118(2) TFEU a special legislative procedure requiring unanimity within the Council must be followed). Following the entry into force of the Lisbon Treaty, the Commission confirmed its 2000 proposal. In order to accelerate the procedure and allow the Council to formally transpose its conclusions of 4 December 2009 into a Council position, which would be the next step in the ordinary legislative procedure, Parliament on 5 May 2010 confirmed its 2002 position as its first-reading position. However, the Council has not transposed its conclusions into a position and, accordingly, no further work on the EU patent can be carried out on the basis of the 2000 Commission proposal.

On 30 June 2010 the Commission adopted a proposal for a Council Regulation on the translation arrangements for the European Union patent based on Article 118(2) TFEU, which built on the existing language regime of the European Patent Office. On 10 December 2010 the Competitiveness Council confirmed that insurmountable difficulties existed making a decision on the translation arrangements requiring unanimity impossible now and in the foreseeable future and the establishment of the unitary patent protection in the entire European Union could not be attained within a reasonable period by applying the relevant provisions of the Treaties. Following that, twelve member states have indicated their intention to establish enhanced cooperation between themselves in the area of the creation of unitary patent protection by addressing a request to the Commission in accordance with Article 329(1) TFEU.

The Treaty enables a minimum of nine member states to cooperate using the Union's institutional framework in an area of Union's non-exclusive competences where the objectives of such a cooperation can not be

attained (Article 20 TEU; Article 326ff. TFEU). Acts adopted under the enhanced cooperation procedure are binding only on the participating Member States and do not form part of the *acquis communautaire*. Once it is established, the enhanced cooperation will be open at any time to all Member States wishing to participate in it.

Enhanced cooperation may be launched after the Council has granted authorisation on the basis of a proposal from the Commission and after obtaining the consent of the European Parliament (Article 329(1) TFEU).

Following the requests made by twelve Member States, the Commission adopted a proposal for a Council Regulation authorising enhanced cooperation in the area of the creation of unitary patent protection on 14 December 2010. This proposal arrived even before Parliament called on the Commission on 15 December 2010 "to come forward with a proposal for enhanced cooperation" (see point 39 of the Resolution on the Commission Work Programme 2011). Commissioner Barnier has asked for a fast-track procedure to be applied in Parliament in order to enable the Council to approve the enhanced cooperation in the Competitiveness Council in March. It will be only after the enhanced cooperation has been approved that the Commission will be able to adopt the implementing measures, namely the legislative proposals on the creation of the unitary title and on the language regime.

The Chair of JURI has been appointed as rapporteur for the procedure consenting to the enhanced cooperation. At this meeting a draft report will be presented with a view to its adoption in the Committee on 27 January. In view of the fact that Parliament is precluded from proposing any amendments to the proposed decision, the rapporteur proposes in the draft report that the committee vote in favour of the proposal to initiate the enhanced cooperation procedure.

6. RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

Procedure 2010/0215 (COD)
Basic doc COM(2010) 392 final
Legal basis Article 82(2) TFEU

Rapporteur for opinion Jan Philipp ALBRECHT
Shadow rapporteurs Wieland (EPP), McCarthy (S&D), Thein (ALDE), Ziobro (ECR), Maštálka (GUE), Speroni (EFD)
Administrator respons. Edouard Dirrig
Lead Comm./rapporteur LIBE / Birgit Sippel (S&D)

PRELIMINARY TIMETABLE

Exchange of views (I) 1.12.2010
Draft opinion 14.12.2010
Deadline for ams 11.01.2011 (noon)
Exchange of views (II) 20.01.2011
Adoption JURI 27.01.2011
Adoption Lead Comm. 25-26.01.2011
ADOPTION PLENARY tbc

Back in 1999, the Tampere European Council called for work to be launched on common minimum standards for suspects or accused persons in criminal proceedings both to ensure the fairness of criminal proceedings and to increase trust between judges in the Union in order to facilitate mutual recognition of judgments throughout the Union (for example, under the European Arrest Warrant).

Following the failure to agree on a comprehensive set of procedural rights for suspected or accused persons in criminal proceedings during the last legislative term¹, the Council adopted a "[roadmap](#)" on procedural rights on 30 November 2009, adopting a "step-by-step approach and listing a number of measures to be dealt with as a matter of priority. This approach was subsequently endorsed as part of the Stockholm Programme in December 2009.

The first of these measures (Measure A of the Roadmap), the Directive on the right to interpretation and translation in criminal proceedings, was adopted earlier this year in accordance with the ordinary legislative procedure².

The present proposal (Measure B of the Roadmap) seeks to establish a series of rights of suspected or accused persons to information about their rights and information

¹ COM(2004) 328, 28.4.2004.

² Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

about the charge in criminal proceedings against them.

In particular, the proposal would require Member States to provide a "Letter of Rights" to ensure that persons are informed of their rights promptly. "Indicative models" of such letters are provided in two annexes to the proposal (one general one and one specific to the European Arrest Warrant).

On 3 December, the Justice and Home Affairs Council mandated the Presidency to initiate discussions with the Parliament on the basis of a Council text having broad support among Ministers, with a view to reaching an agreement on the proposed directive.

At this meeting, the rapporteur for opinion, Jan Philipp Albrecht, will lead an exchange of views on the 58 amendments tabled by Members (in addition to the 31 amendments contained in the draft opinion) ahead of the vote on 27 January.

- The validity of Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC has been challenged incidentally before the General Court in Case T-484/10 *Gas Natural Fenosa v Commission* as part of a case brought against a specific Commission state aid decision.

- The validity of Regulation No 1007/2009 on trade in seal products has been challenged before the General Court in Case T-526/2010, *Inuit Tapiriit Kanatami and Others v Commission*, through a claim for the annulment of Commission Regulation (EC) No 737/2010 laying down detailed rules for the implementation of that Regulation.

In both cases, the Committee is called upon to decide whether to recommend to the President that Parliament should intervene in the proceedings under Rule 128(4) in defence of legislation adopted together with the Council under the codecision procedure (now the ordinary legislative procedure).



IN CAMERA



IN CAMERA

7. DISPUTES INVOLVING PARLIAMENT:

Procedure	Rule 128(4)
Standing rapporteur	Diana WALLIS
Administrator respons.	Edouard Dirrig Susanne Knöfel

PRELIMINARY TIMETABLE

Exchange of views	20.1.2011
Adoption JURI	20.1.2011

The Committee will discuss *in camera* the involvement of Parliament in two disputes involving Parliament:

8. VERIFICATION OF CREDENTIALS:

Rapporteur	Klaus-Heiner LEHNE
Administrator respons.	Magnus Nordanskog

PRELIMINARY TIMETABLE

Exchange of views	20.01.2011
Adoption JURI	20.01.2011

The President has announced to the plenary that the competent national authorities have given notice of the appointment of the following as Members of the European Parliament, with effect from the dates shown below:

Mrs María IRIGOYEN PÉREZ, (to replace Mr Ramón Jáuregui Atondo), as from 16 November 2010;

Mr Philippe BOULLAND, (to replace Mrs Pascale Gruny), as from 15 December 2010;

According to Rule 3 of the Rules of Procedure, on the basis of a report by the JURI Committee, Parliament shall verify the credentials without delay and rule on the validity of the mandate of each of its newly elected Members. Parliament will also rule on any dispute referred to it pursuant to the provisions of the Act of 20 September 1976, except those based on national electoral laws. It is not possible to confirm the validity of the mandate of a Member unless the written declarations required on the basis of Article 7 of the Act of 20 September 1976 and Annex I to the Rules have been made. Until such time as a Member's credentials have been verified or a ruling has been given on any dispute, the Member shall take his seat in Parliament and on its bodies and shall enjoy all the rights attaching thereto.

9. RULE 38A: SUBSIDIARITY:

Since 01 December 2010 Parliament has received the following reasoned opinions from National Parliaments raising concerns about subsidiarity:

Reasoned opinion

from the Chamber of Deputies of Grand Duchy of Luxembourg on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
(COM(2010)0537-C7-0295/2010 - 2010/0266(COD))

from the Sejm of the Republic of Poland on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
(COM(2010)0537-C7-0295/2010 - 2010/0266(COD))

from the Senate of the Republic of Poland on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
(COM(2010)0537-C7-0295/2010 - 2010/0266(COD))

from the Seimas of the Republic of Lithuania on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
(COM(2010)0537-C7-0295/2010 - 2010/0266(COD))

from the Chamber of Deputies of Grand Duchy of Luxembourg on the proposal for regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers
(COM(2010)0539-C7-0294/2010 - 2010/0267(COD))

from the Sejm of the Republic of Poland on the proposal for regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers
(COM(2010)0539-C7-0294/2010 - 2010/0267(COD))

from the Senate of the Republic of Poland on the proposal for regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers
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(COM(2010)0539-C7-0294/2010 - 2010/0267(COD))

10. ANY OTHER BUSINESS:

11. DATE AND PLACE OF NEXT MEETING

Brussels

Wednesday 26 January 2011

9:00 a.m. to 12:30 a.m.

3:00 p.m. to 6:30 p.m.

Thursday 27 January 2011

9:00 a.m. to 12:30 a.m.

LIBRARY NEWS

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To learn more about the use of these pages and databases, [register for a training](#). In addition a team of information specialists is always available to help you with specific requests. Do not hesitate to [ask the library](#).
