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Committee on Legal Affairs

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PE 390.396v01-00

COMPROMISE AMENDMENT 1

Draft report

(PE 374.427v01-00)

Cristian Dumitrescu

Proposal for a regulation of the European Parliament and of the Council on the law applicable to contractual obligations (Rome I)

Proposal for a regulation (COM(2005)0650 – C6-0441/2005 – 2005/0261(COD))

Text proposed by the Commission

Amendments by Parliament

Compromise amendment by Cristian Dumitrescu

Compromise amendment 1
Article 5

1. *Consumer contracts within the meaning and in the conditions provided for by paragraph 2* shall be governed by the law of the Member State in which the consumer has his habitual residence.

2. Paragraph 1 shall apply *to contracts concluded by a natural person, the consumer, who has his habitual residence in a Member State for a purpose which can be regarded as being outside his trade or profession with another person, the professional, acting in the exercise of his trade or profession.*

1. *A contract concluded by a natural person for a purpose which can be regarded as being outside his trade or profession (the consumer) with another person acting in the exercise of his trade or profession (the professional)* shall be governed by the law of the Member State in which the consumer has his habitual residence.

2. Paragraph 1 shall apply *if, at the time when the contract is concluded:*

It shall apply on condition that the contract has been concluded with a person who pursues a trade or profession in the Member State in which the consumer has his habitual residence or, by any means, directs such activities to that Member State or to several States including that Member State, and the contract falls within the scope of such activities, unless the professional did not know where the consumer had his habitual residence and this ignorance was not attributable to his negligence.

(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;

and the contract falls within the scope of this activity.

2a. The law chosen pursuant to Article 3 may not have the effect of derogating from the law applicable pursuant to paragraph 1.

2b. The law applicable to a contract concluded between a consumer and a professional shall be determined on the basis of Articles 3 and 4 where the conditions referred to in paragraph 2(a) or (b) are not fulfilled or where, at the time when the contract was concluded, the professional did not know where the consumer had his habitual residence and where this ignorance is not attributable to his negligence.

3. Paragraph 1 shall not apply to:

(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;

(b) contracts of carriage other than contracts relating to package travel within the

3. Paragraph 1 shall not apply to:

(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;

(b) contracts of carriage other than contracts relating to package travel within the

meaning of Directive 90/314/EEC of 13 June 1990;

(c) contracts relating to a right in rem or right of user in immovable property other than contracts relating to a right of user on a timeshare basis within the meaning of Directive 94/47/EC of 26 October 1994.

meaning of Directive 90/314/EEC of 13 June 1990;

(c) contracts relating to a right in rem or right of user in immovable property other than contracts relating to a right of user on a timeshare basis within the meaning of Directive 94/47/EC of 26 October 1994;

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

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

Or. fr