

CCBE Statement on the outcome of the vote on CESL by the JURI Committee

14/11/2013

The CCBE welcomes the decision on 17 September of the Committee on Legal Affairs (JURI) of the European Parliament to vote overwhelmingly in support of the Regulation on a Common European Sales Law (CESL)¹. The CCBE, in line with its previous position papers in favour of CESL published in the past years, believes that this optional instrument is likely to enhance the prospects of the internal market, even though its scope will be restricted to online contracts.²

As the debate continues, the CCBE hopes that the Council will soon rescind its opposition to the proposal and allow a Common European Sales Law to become a reality. This text is an example of the possibilities offered by optional instruments, and represents a great opportunity to use optional instruments in the future in order to unify the private laws of the Member States. The CCBE believes it is more sensible and attractive to promote the use of optional instruments as a second national law regime freely available to the parties, instead of piling up directives or regulations that often cut heavily into the flesh of national laws and their respective legal cultures.

However, the CCBE hopes that the final text of the CESL will finally not become overprotective towards the consumer which could, as a result, lead businessmen to the conclusion that the principle of freedom of contract has been impaired to the detriment of the seller. Such a view might be warranted, if – for example – a price control would take place on the basis of an unfairness test applied by the courts, as provided for in the Committee on Legal Affairs' current report. There is also some need to further refine the provisions relating to linked contracts and mixed-purpose contracts, and to consider carefully how these interact with the consumer credit regimes of the Member States.

The CCBE stands ready to provide further practical input with a view to improving the text for potential users.

¹ The UK delegation to the CCBE does not support the views expressed in this statement.

² See e.g. [CCBE Position Paper on the proposal for a Regulation on a Common European Sales Law \(COM\(2011\)0635\)](#), September 2012, and [CCBE comments on the JURI Draft Report on the proposal for a regulation on a Common European Sales Law \(COM\(2011\)0635\)](#), May 2013.