



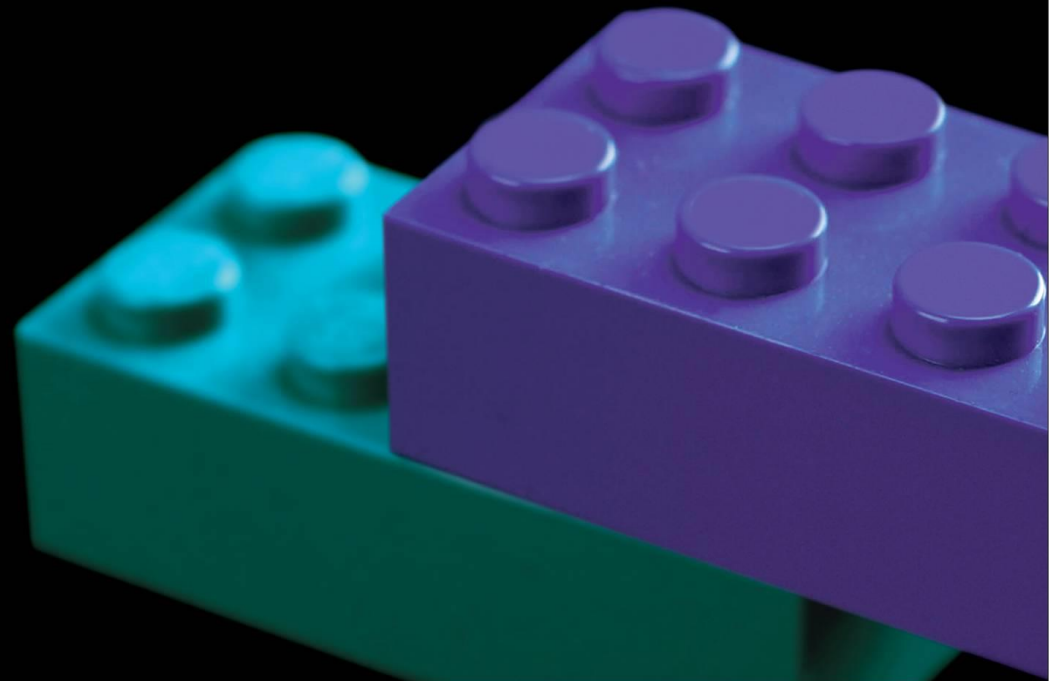
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What is the CESL's contribution in terms of damages and interest?

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The CESL's contribution in terms of damages and interest

The most internationally applied contractual standard in terms of damages and interest is the one set by Articles 74 to 78 of the Vienna Convention on the International Sales of Goods ("CISG"). It has generated abundant case-law and academic comments.

It is therefore tempting to contrast the contents of the provisions of the draft CESL Regulation pertaining to damages (Articles 159 to 171) with those of the CISG, to see how they measure up against that benchmark.

The CESL's contribution in terms of damages and interest

- In the draft CESL Regulation, Articles 159 to 161 are the functional equivalent of Article 74 of the CISG.
- In the draft CESL Regulation, Articles 162 and 163 are the functional equivalent of Article 77 of the CISG.

The CESL's contribution in terms of damages and interest

- In the draft CESL Regulation, Article 164 is the functional equivalent of Article 75 of the CISG.
- In the draft CESL Regulation, Article 165 is the functional equivalent of Article 76 of the CISG.
- In the draft CESL Regulation, Article 166 is the functional equivalent of Article 78 of the CISG.

The CESL's contribution in terms of damages and interest

It flows from the foregoing that the draft CESL's contribution in terms of damages and interest is fairly minimal.

At first, one could feel somewhat disappointed, given the amount of academic input which went into it.

However, upon reflection, this is for the legal practitioners a blessing in disguise, as one does not discern an urge to modify time-tested principles.

The CESL's contribution in terms of damages and interest

Conclusion:

The legal practitioners' hope is that the legislative process which is underway at the European Parliament level will not introduce unwanted changes or, worse, a new standard for damages and interest, different from that which is well known and tried in courts and arbitral tribunals alike.