

Declaration on the relationship between secondary Community law and the Brussels (27 September 1968) and Rome (19 June 1980) Conventions

At its meeting in Barcelona on 1 October 1994, the European Group on Private International Law analysed the relationship between conflict rules contained in secondary legislation of the European Community and the Conventions of Brussels and Rome.

It notes that several recent Community measures bringing into operation sectors of the internal market contain provisions on choice-of-law or on jurisdiction in areas already covered by the above-mentioned Conventions.

It observes that most of these provisions, in particular Article 6 (2) of Council Directive 93/13 of 5 April 1993 on unfair terms in consumer contracts, which has served as the model for other Community proposals, could give rise to serious difficulties of interpretation, particularly by reason of the lack of coordination with the relevant provisions of the Brussels and Rome Conventions.

It considers that, in view of their functional unity, Community measures and the subsequent implementing provisions in the national law of the Member States ought to be consistent with the corresponding provisions of the Conventions.

It recalls the Joint Declaration of the Member States made on signature of the Rome Convention expressing the wish that the institutions of the European Community will, where the need arises, endeavour to adopt choice-of-law rules which are as far as possible consistent with those Conventions.

It also recalls the provisions relating to judicial cooperation in civil matters introduced by the Treaty on European Union.

It considers that the Community authorities, when drafting rules, in directives or regulations, on choice-of-law or jurisdiction with regard to particular matters, should take into account the Brussels and Rome Conventions and, where the need arises, take all necessary advice at the various stages of the decision-making process, as is done by some national legislatures.

It further considers that national legislatures, when implementing a directive, ought to take the Brussels and Rome Conventions into account.