

Joined declaration issued by the European Parliament and Commission at the time the Regulation was passed - Statement on Articles 15 and 73

<http://europa.eu.int/comm/justice_home/unit/civil/justciv_conseil/justciv_en.pdf>

1. The Council and the Commission are aware that the development of electronic commerce in the information society facilitates the economic growth of undertakings. Community law is an essential if citizens, economic operators and consumers are to benefit from the possibilities afforded by electronic commerce.

They consider that the development of new distance marketing techniques based on the use of the Internet depends in part on the mutual confidence which may grow up between undertakings and consumers. One of the major elements in this confidence is the opportunity offered to consumers by Article 16 of the Regulation to bring possible disputes before the courts of the Member States in which they reside, where the contract concluded by the consumer is covered by Article of the Regulation.

The Council and the Commission point out in this connection that for Article 15(1)(c) to be applicable it is not sufficient for an undertaking to target its activities at the Member State of the consumer's residence, or at a number of Member States including that Member State; a contract must also be concluded within the framework of its activities. This provision relates to a number of marketing methods, including contract concluded at a distance through the Internet.

In this context, the Council and the Commission stress that the mere fact that an Internet site is accessible is not sufficient for Article 15 to be applicable, although a factor will be that this Internet site solicits the conclusion of distance contracts and that a contract has actually been concluded at a distance, by whatever means. In this respect, the language or currency which a website uses does not constitute a relevant factor.

2. The Council and the Commission take the view that in general it is in the interest of consumers and undertakings to try to settle their disputes amicably before resorting to the courts.

The Council and the Commission stress in this connection that the purpose of the Regulation, and the particular of Articles 15 and 17 thereof, is not to prohibit the parties from making use of alternative methods of dispute settlement.

The Council and the Commission accordingly wish to reiterate how important it is that work on alternative methods of dispute settlement in civil and commercial matters should continue at European Community level, in keeping with the Council's conclusion of 29 May 2000.

They are aware of the great significance of this work and stress the useful complementary role represented by alternative methods of dispute settlement in civil and commercial matters, in particular with regard to electronic commerce.

3. Pursuant to Article 73 of the Regulation, the Commission is to submit a report on the application of the Regulation, accompanied, if need be, by proposals for adaptations, to the European Parliament, the Council and the Economic and Social Committee.

The Council and the Commission consider that in preparing the report especial attention should be paid to the application of the provisions of the Regulation relating to consumers and small and medium-sized undertakings, in particular with respect to electronic commerce. For this purpose, the Commission will, where appropriate, propose amendments to the Regulation before the expiry of the period referred to in Article 73 of the Regulation.