

COMMISSION DECISION**of 17 January 2013****on setting up the Commission Expert Group on a European Insurance Contract Law**

(2013/C 16/03)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) On 1 July 2010, the Commission launched a consultation on the 'Green Paper on policy options for progress towards a European contract law for consumers and businesses' ⁽¹⁾. A number of stakeholders from the insurance sector, in particular representatives of insurance undertakings and insurance intermediaries, stated that differences in contract law posed obstacles to cross-border trade in insurance products.
- (2) In its resolution of 8 June 2011, the European Parliament reiterated its earlier call to include insurance contracts within the scope of an optional instrument and expressed its belief that such an instrument could be particularly useful for small-scale insurance contracts, while calling on the Commission to establish a dedicated expert group for any future preparatory work on financial services to ensure that any future instrument takes into account the possible specific characteristics of the financial services sector.
- (3) Following the 'Green Paper on policy options for progress towards a European contract law for consumers and businesses', the Commission adopted a proposal for a regulation of the European Parliament and of the Council on a Common European Sales Law on 11 October 2011. The scope of the proposed Common European Sales Law was limited to contracts for the sale of goods, contracts for the supply of digital content and contracts for related services, as goods account for the major share of intra-EU trade and the trade in digital products has a growing economic importance.
- (4) On 16 February 2012, the Commission adopted the White Paper 'An agenda for adequate, safe and sustainable pensions', which put forward a package of initiatives with the aim of facilitating the development of complementary private retirement savings. Measure 19, which is part of this package, announced that the Commission would examine the need for removing

contract law-related obstacles to the design and distribution of life insurance products with savings/investment functions in order to facilitate the cross-border distribution of certain private pension products.

- (5) Having taken into account the stakeholder contributions to the consultation on the 'Green Paper on policy options for progress towards a European contract law for consumers and businesses' and having regard to the European Parliament's resolution of 8 June 2011, the Commission considers that the situation in the insurance sector merits a specific in-depth analysis. The Commission is therefore minded to examine whether differences in insurance contract law pose obstacles to cross-border trade in insurance products.
- (6) Acknowledging the need to take into account the specific characteristics of the financial services sector, the Commission considers it necessary to set up a group of experts to assist and enable the Commission to draw on a wide range of practical expertise and knowledge for the purpose of its analysis.
- (7) The group of experts shall explore whether differences between insurance contract laws of the Member States create barriers to cross-border trade and if so, in which specific insurance areas, including certain life insurance products which could serve as private pensions, this is the case. The group of experts shall issue a report based on its findings.
- (8) The group of experts shall be composed of representatives of stakeholders, including the insurance industry, the main users of insurance products and practitioners with experience in drafting insurance contracts. The group of experts may also include experts acting in their personal capacity, such as academics with specific expertise in the area of contract law and in particular insurance contract law. The composition of the group of experts may vary depending on its specific tasks.
- (9) Rules on disclosure of information by members of the group of experts should be laid down.
- (10) Personal data should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data,

⁽¹⁾ COM(2010) 348 final, 1.7.2010.
http://europa.eu/legislation_summaries/enterprise/business_environment/co0016_en.htm

HAS DECIDED AS FOLLOWS:

Article 1

Commission Expert Group on European Insurance Contract Law

The group of experts 'Commission Expert Group on European Insurance Contract Law', hereinafter referred to as 'the Expert Group', is hereby set up.

Article 2

Task

1. The Expert Group's task shall be to carry out an analysis in order to assist the Commission in examining whether differences in contract laws pose an obstacle to cross-border trade in insurance products.

2. If the Expert Group finds that differences in contract laws may pose obstacles to cross-border trade in insurance products, it shall identify the insurance areas which are likely to be particularly affected by such obstacles.

3. By the end of 2013, the Expert Group shall deliver to the Commission a report on its findings.

Article 3

Consultation

The Commission may consult the Expert Group on any matter relating to insurance contract law and to relevant matters of contract law.

Article 4

Membership — appointment

1. The Expert Group shall be composed of up to 20 members.

2. Members may be individuals appointed in a personal capacity, individuals representing a common interest — such as the interest of insurance providers, insurance users or legal practitioners — as well as insurance organisations, insurance user organisations and lawyers' organisations.

3. Members appointed in a personal capacity shall act independently and in the public interest. They shall be appointed by the Director-General of DG Justice from specialists with a specific knowledge in the areas referred to in Articles 2 and 3 and having responded to a call for applications. Individuals appointed to represent a common interest shall not represent an individual stakeholder. They shall be appointed by the Director-General of DG Justice from stakeholders having a competence and strong interest in the areas referred to in Article 2 and willing to contribute to the work of the Expert Group and having responded to a call for applications. Organisations shall nominate their representatives. Members shall be appointed on the basis of their willingness to dedicate the time necessary in order to contribute effectively to the Expert Group's deliberations.

4. Members of the Expert Group shall be appointed for a fixed term of 2 years ending 24 months after the date of the adoption of this Decision.

5. Members who are no longer capable of contributing effectively to the Expert Group's deliberations, who resign or who do not comply with the conditions set out in paragraph 4 of this Article, or Article 339 of the Treaty on the Functioning of the European Union, may be replaced for the remainder of their term of office.

6. Members appointed in a personal capacity shall sign an undertaking to act in the public interest and a declaration indicating the absence or existence of any conflict of interest.

7. The names of members shall be published in the Register of Commission Expert Groups and other similar entities ('the Register') and on the Internet site of DG Justice.

8. Personal data shall be collected, processed and published in accordance with Regulation (EC) No 45/2001 ⁽¹⁾.

Article 5

Operation

1. The Expert Group shall be chaired by a representative of the Commission.

2. In agreement with the Commission services, the group may set up sub-groups to examine specific issues on the basis of terms of reference defined by the group. Such sub-groups shall be disbanded as soon as their mandate is fulfilled.

3. The Commission's representative may ask experts who are not members of the Expert Group with specific competence in a subject on the agenda to participate in the work of the Expert Group or sub-group on an ad hoc basis. In addition, the Commission's representative may give observer status to individuals, organisations as defined in Rule 8(3) of the horizontal rules on expert groups and candidate countries ⁽²⁾.

4. Members of the Expert Group as well as invited experts and observers shall comply with the obligations of professional secrecy laid down by the Treaties and their implementing rules, as well as with the Commission's rules on security regarding the protection of EU classified information, laid down in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom. Should they fail to respect these obligations, the Commission may take all appropriate measures.

⁽¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽²⁾ http://ec.europa.eu/transparency/regexpert/PDF/SEC_2010_EN.pdf

5. The Expert Group and its sub-groups shall normally meet on Commission premises. The Commission shall provide secretarial services. Other Commission officials with an interest in the proceedings may attend meetings of the Expert Group and its sub-groups.

6. The Commission publishes relevant documents on the activities of the group, such as agendas and, minutes, either by including it in the Register or via a link from the Register to a dedicated website. Exceptions to publication should be foreseen where disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001. Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Expert Group's activities, shall be owned solely by the Union, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the work in the Expert Group being entered into.

Article 6

Meeting expenses

1. Participants in the activities of the Expert Group shall not be remunerated for the services they render.

2. Travel and subsistence expenses incurred by participants in the activities of the group shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

3. Meeting expenses shall be reimbursed within the limits of the available appropriations allocated under the annual procedure for the allocation of resources.

Article 7

Applicability

The Decision shall apply for a period of 24 months after its adoption. The Commission shall decide on a possible extension before that date.

Done at Brussels, 17 January 2013.

For the Commission

Viviane REDING

Vice-President