

Lisbon II – caught in a bind?

From: Robert Pierse, Pierse & Fitzgibbon, Solicitors, Market Street, Listowel, Co Kerry

One of the frustrations of the Lisbon I referendum was the lack of proper information on the contents of the ‘new treaty’: what articles were being amended; also, of course, what was being added and subtracted.

I am pleased to say that I have discovered a 2008 publication by the Institute of International and European Affairs (IIEA), which forms part of a ‘Lisbon’ pack issued by the IIEA, Europe House, 8 North Great Georges Street, Dublin 1 for a modest €50, telephone: 01 874 6756.

The main publication is a 421-page *Annotated and Consolidated Version of the*



Treaties: as amended by the Treaty of Lisbon, edited by Peadar Ó Broin. It is a multi-coloured production. It shows different aspects in different colours, for example, deleted text in red. It

seems unbiased.

However, other items of the pack seem to indicate that there is no downside to the treaty, for example, democratic deficit, which I believe is a serious flaw

in Europe.

It is a pity the Irish government is not taking steps to strengthen our national safeguards in a manner such as the German government has recently been directed by its constitutional court.

The IIEA's website (www.iiea.com) has a publication on the so-called guarantees of the heads of state meeting on 19 June. The documents show that, in fact, they are not legal guarantees but are alleged to be “legally binding clarifications [my emphasis] on sensitive areas of Irish sovereignty” – binding on whom?

It behoves lawyers to objectively read and interpret all this material.

Debt collection and European regulations

From: Manus Sweeney, Manus Sweeney & Co, Solicitors, Mary's Abbey, Dublin 7

Time was when practice and procedure in relation to debt collection was a relatively straightforward procedure and practitioners would pay little heed to laws emanating from beyond our shores. However, under SI no 388, the *European Communities (Late Payment in Commercial Transactions) Regulations 2002*, where there

is a ‘commercial transaction between undertakings’ and not a consumer transaction, said regulations apply to such transactions.

As an example, if a commercial transaction took place during the second half of 2006, the reference rate applicable to such a transaction would be 4.25%, being the rate in force on 1 July 2006 in respect of fixed-rate tenders for main refinancing operations of

the European Central Bank.

The interest rate applicable to such a transaction as above would be 11.25%, being the reference rate plus 7% as provided by section 5(1) of SI no 388.

The *Official Journal of European Communities* shows the ‘European reference rate’ applicable to a given half year, and this can be viewed online.

The above rate applies from 30 days after the date of first

furnishing an invoice, and on a daily basis at simple interest.

At a time when commercial debts are more frequently written off in their entirety, a slavish adherence to SI 388 may be considered neither practical nor conscionable. However, practitioners may have no option but to at least seek same in their ‘letter before action’, though it can still be claimed when seeking judgment. **G**



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