

Article 24

For the purposes of the Part of the Convention, an offer, declaration of acceptance or any other indication of intention “reaches” the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

OVERVIEW

1. Article 24 defines, for the purposes of Part II (governing formation of the contract), when a communication reaches the other party. Part II of the Convention refers to the time when a communication “reaches” the other party in articles 15 (1) (time when an offer becomes effective), 15 (2) (withdrawal of offer), 16 (1) (revocation of acceptance), 17 (rejection of an offer), 18 (2) (time when an acceptance becomes effective), 20 (1) (commencement of time period for acceptance if an offer is made via instantaneous means of communication), 21 (2) (late acceptance that normally would have arrived in time), and 23 (time of conclusion of contract).

SCOPE OF ARTICLE 24

2. Article 24 applies only to communications made before or at the time the contract is concluded. For communications after the contract is concluded, article 27 provides that the addressee bears the risk of non-receipt or of delay or error.¹

ORAL COMMUNICATIONS

3. An oral communication reaches the addressee when it is made to him. There are no reported cases applying this provision.

OTHER COMMUNICATIONS

4. Any other communication reaches the addressee when it is delivered to the addressee personally or to his business

or mailing address. If the addressee does not have a place of business or mailing address, a communication reaches the addressee when it is delivered to his habitual residence. A communication delivered to the relevant address is effective even if the addressee has changed its address.² One court has stated that a declaration of intent reaches its addressee if it has entered the addressee’s sphere in a fashion that affords the latter the possibility, under normal circumstances, to become aware of the content of the declaration; and that any facilities set up by the addressee for the receipt of declarations of intent form part of the addressee’s sphere of control.³

LANGUAGE OF COMMUNICATION

5. Article 24 does not expressly address whether a communication in a language that the addressee is unable to understand “reaches” the addressee. Under paragraphs (1) and (2) of article 8, a party’s communication is to be interpreted in accordance with the common understanding of the parties or, absent such a common understanding, in accordance with the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances. One court has stated that, pursuant to article 8, a communication does not “reach” the addressee unless the language of the communication was agreed to by the parties, used by the parties in their prior dealings, or customary in the trade.⁴ Several other courts have given no effect to standard terms when they were not translated into the language of the other party.⁵

Notes

¹ But see Arrondissementsrechtbank, Amsterdam, Netherlands, 5 October 1994, Unilex (applying article 24 to seller’s letter responding to buyer’s explanation for partial rejection of the goods).

² Arrondissementsrechtbank, Amsterdam, the Netherlands, 5 October 1994, Unilex (seller’s letter in response to buyer’s explanation for partial rejection of the goods “reached” the buyer even though buyer did not actually receive it because of change of address).

³ Oberlandesgericht Dresden, Germany, 10 November 2006, English translation available on the Internet at www.cisg.law.pace.edu (a notice sent by fax to an office shared by the addressee with other companies).

⁴ CLOUT case No. 132 [Oberlandesgericht Hamm, Germany, 8 February 1995], English translation available on the Internet at www.cisg.law.pace.edu (discussion of “language risk” in light of article 8).

⁵ CLOUT case No. 345 [Landgericht Heilbronn, Germany, 15 September 1997], English translation available on the Internet at www.cisg.law.pace.edu (standard terms stated exclusively in German language sent by a German seller to an Italian buyer); Amtsgericht Kehl, Germany, 6 October 1995, English translation available on the Internet at www.cisg.law.pace.edu (standard terms stated exclusively in German language sent by a German buyer to an Italian seller).