Principles of European Contract Law and Italian Law

A Commentary

Edited by Junior Antoniolli Anto Venezijino



Principles Of European Contract Law And Italian Law

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Principles Of European Contract Law And Italian Law:

Principles of European Contract Law and Italian Law Luisa Antoniolli, Anna Veneziano, 2005-01-01 To provide valuable legal service to persons in today s Europe practitioners must be conversant in both national and transnational law At the European level the Principles of European Contract Law PECL are an increasingly important element of contract law together with national contract law as contained in Civil Codes and various national statute Accordingly Kluwer Law International has initiated a series of volumes under the direction of prof Hondius of the University of Utrecht comparing PECL with the most important European legal systems This volume on Italian law is the second in the series Using a straightforward comparative method the editors analysis not only reveals a significant area of convergence between the PECL and Italian contract law but also highlights the main differences between the two bodies of rules The reasons for these differences both legal and non legal such as historical social economic are clearly set forth. The book provides complete texts with annotations of the PECL and the corresponding Italian rules The presentation proceeds as follows general provisions scope of application general duties terminology formation of contracts general provisions offer and acceptance liability for negotiations authority of agents general provisions direct and indirect representation validity interpretation contents and effectsperformancenon performance and remedies in general particular remedies for non performance right to performance withholding performance termination of the contract price reduction damages and interest The editors commentary includes extensive reference to case law and legal doctrine at all essential points In this way they provide a comprehensive description of the law in action as well as its evolving trends In addition incisive essays by two leading experts in the field of comparative law prof Rodolfo Sacco and prof Michael Joachim Bonell analyse the relationship of the PECL and Italian law and its wider framework in the harmonisation of private law at the European and international levels The book is a valuable handbook and guide for both foreign and Italian lawyers For non Italian lawyers be they practitioners or academics it provides a concise but complete and up to date outline of current Italian contract law organized on the basis of a system PECL with which many European lawyers are familiar For Italian lawyers it offers a clearer insight into a wider European legal contract system whose importance in the evolution of a common European private law is growing rapidly Principles of European Contract Law Series 2 European Contract Law Bénédicte Fauvarque-Cosson, Denis Mazeaud, 2009-04-27 The Association Henri Capitant des Amis de la Culture Juridique Fran aise and the Soci t de l gislation compar e joined the academic network on European Contract Law in 2005 to work on the elaboration of a common terminology and on guiding principles as well as to propose a revised version of the Principles of European Contract Law PECL The results of this work were sent to the European Commission and have already been published in French The English translation is now being published by sellier elp This work could contribute to the wider European project The part on the guiding principles could be a component of the CFR in the form of black letter model rules or recitals The part on terminology is in itself useful for the elaboration of the

final various linguistic versions of the CFR It finds its place within the materials which will accompany the model rules Last but by no means least the revised version of the PECL should be considered by the European institutions as an alternative set The Principles of European Contract Law Ole Lando, 2023-09-29 An arbitrator has to of model rules on contract law decide a case under a contract to be governed by internationally accepted principles of law A business person is negotiating a contract with a company in another EU state but neither party wishes to apply the law of the other party s country A lawyer is advising parties to contracts involving parties in other StatesAn EU official is drafting a new Directive affecting contractsA professor of law wants her students to gain a solid understanding of the way in which contracts are treated by the laws of the different Member States and to understand the common principles All these need to know the fundamental principles of contract law shared by the legal systems of the Member States and to have a concise comprehensive and workable statement of them The Principles of European Contract Law provides this The Principles have been drawn up by an independent body of experts from each Member State of the EU under a project supported by the European Commission and many other organisations The Principles are stated in the form of articles with a detailed commentary explaining the purpose and operation of each article and its relation to the remainder A particularly valuable feature is that each article also has extensive comparative notes surveying the national laws and other international provisions on the topic The Principles of European Contract Law Parts I II covers the core rules of contract formation authority of agents validity interpretation contents performance non performance and remedies The articles previously published in Part I 1995 are included in a Principles of European Contract Law Commission on European Contract Law, 2000-01-01 revised and re ordered form This text provides a comprehensive guide to the principles of European contract law They have been drawn up by an independent body of experts from each Member State of the EU under a project supported by the European Commission and many other organizations. The principles are stated in the form of articles with a detailed commentary explaining the purpose and operation of each article and its relation to the remainder Each article also has extensive comparative notes surveying the national laws and other international provisions on the topic Commentaries on European Contract Laws Nils Jansen, Reinhard Zimmermann, 2018-07-12 The book provides rule by rule commentaries on European contract law general contract law consumer contract law the law of sale and related services dealing with its modern manifestations as well as its historical and comparative foundations After the collapse of the European Commission's plans to codify European contract law it is timely to reflect on what has been achieved over the past three to four decades and for an assessment of the current situation In particular the production of a bewildering number of reference texts has contributed to a complex picture of European contract laws rather than a European contract law The present book adopts a broad perspective and an integrative approach All relevant reference texts from the CISG to the Draft Common European Sales Law are critically examined and compared with each other As far as the acquis commun ie the traditional private law as laid down in the national

codifications is concerned the Principles of European Contract Law have been chosen as a point of departure The rules contained in that document have however been complemented with some chapters sections and individual provisions drawn from other sources primarily in order to account for the guickly growing acguis communautaire in the field of consumer contract law In addition the book ties the discussion concerning the reference texts back to the pertinent historical and comparative background and it thus investigates whether and to what extent these texts can be taken to be genuinely European in nature ie to constitute a manifestation of a common core of European contract law Where this is not the case the question is asked whether and for what reasons they should be seen as points of departure for the further development of European contract law Pluralism and European Private Law Leone Niglia, 2013-01-29 European private law has hitherto tended to be conceptualised firmly around ideas of unity and harmony Yet the discourse within other areas of European law notably constitutional law scholarship visibly adopts pluralist perspectives This book seeks to bridge the gap between public and private law by looking at European private law from various pluralist positions and by investigating old and new ways in which to understand legal pluralism in general It fills a gap in the wide literature on legal pluralism as the first book entirely dedicated to offering an insight into legal pluralism from the vantage point of the private law domain The book addresses critically issues such as what pluralism really means in private law and what conceptions of pluralism it embodies including discussion about the outer boundaries of any of the pluralist understandings Contributions address comparative critical historical theoretical and normative aspects The book provides an opportunity to engage innovatively with problematic conceptual issues which inform the work of European private law scholars including the debate on the Common Frame of Reference Poject of the European Commission The Oxford Handbook of Comparative Law Mathias Reimann, Reinhard Zimmermann, 2019-03-26 This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide ranging and diverse critical survey of comparative law at the beginning of the twenty first century It summarizes and evaluates a discipline that is time honoured but not easily understood in all its dimensions In the current era of globalization this discipline is more relevant than ever both on the academic and on the practical level The Handbook is divided into three main sections Section I surveys how comparative law has developed and where it stands today in various parts of the world This includes not only traditional model jurisdictions such as France Germany and the United States but also other regions like Eastern Europe East Asia and Latin America Section II then discusses the major approaches to comparative law its methods goals and its relationship with other fields such as legal history economics and linguistics Finally section III deals with the status of comparative studies in over a dozen subject matter areas including the major categories of private economic public and criminal law The Handbook contains forty eight chapters written by experts from around the world The aim of each chapter is to provide an accessible original and critical account of the current state of comparative law in its respective area which will help to shape the agenda in the years to come Each chapter also includes a

short bibliography referencing the definitive works in the field **Interpretation of Contracts in Comparative and Uniform Law** Ahmet Cemil Yildirim, 2019-05-14 Due to the globalized nature of modern commerce arbitrators and legal counsel are often required to interpret contracts according to the rules of legal systems that are different from their own Thus a thorough comparative examination of the principles of interpretation of contracts in major legal systems and uniform laws such as this indispensable book provides becomes an essential resource The book examines the principles of contract interpretation found in seven legal systems French Italian German Swiss Turkish English and U S as well as in all applicable uniform laws drawing on the case law and scholarship aligned with each In addition to texts intended to unify or harmonize the law at a global level the European Union's uniform law texts which constitute an important reference model for regional codifications are also presented The terminology peculiar to each system has been preserved in its language Specific issues and topics raised include the following subjective versus objective interpretation historical reasons for basic differences in the approaches of individual legal systems the principle of freedom of contract good faith and fair dealing rules that restrict the interpretation of contracts and commercial usages The author's systematic presentation culminates in a proposal of a practical and universal method of interpretation of contracts Given the importance of the interpretation of contracts in cross border transactions every practitioner of international arbitration will welcome this incomparable book s easy access to the essential literature and case law in the legal systems and uniform laws they are most likely to encounter Corporate counsel scholars and academics will discover the only detailed comparative overview available of the theory and practice of the Copyright, Contracts, Creators Giuseppina D'Agostino, 2010-01-01 Copyright Contracts interpretation of contracts Creators provides a new and original analysis on the relationship between owners and creators and recommendations for legislative change to re balance the relationship It is a must read for the intellectual property legal community and anyone interested in the promotion of creative works Marshall Rothstein Justice of the Supreme Court of Canada Dr Giuseppina D Agostino is a protector of the arts and her work on intellectual property is designed not only to bring law and order to our digital universe but to bring hope to the artists poets and writers whose only hope of pursuing their artistry is to earn income for their craft A wonderful book by one of the most wonderful and forward thinking minds in this subject area Tony Chapman Founder and CEO Capital C Canada Dr D Agostino has produced an important carefully documented and courageous study that deserves to be widely read and discussed and dare one say even to have its message heeded David Vaver University of Oxford UK Copyright Contracts Creators evaluates the efficacy of current copyright law to address the contracting and use of creative works It looks in particular at freelance works and argues that their copyright treatment on a national and international level is inadequate to resolve ambiguities in the contracting and uses of the work Giuseppina D Agostino discusses how historically laws and courts were more sympathetic to creators and how the Internet revolution has shifted the scales to favour owners Consequently creators often find themselves at opposing ends with copyright owners and in a

disproportionately weaker bargaining position that places tremendous strain on their livelihoods She argues that this predicament puts society at risk of losing its most valued asset professional creators. The author calls for a new framework to justify legislative provisions and resolve ambiguities while suggesting principles and mechanisms to address the inadequate European Contract Law Hein Kötz, 2017-10-13 This new edition of European Contract Law treatment of freelance work examines the contract rules of several different European jurisdictions including the most important civilian systems and English common law while attempting to articulate general principles which are common in all of them While the first edition was limited to a comparative analysis of the rules on formation and validity of contracts agency third party beneficiaries and assignment the second edition now also includes contractual remedies and various updates and revisions of the first edition especially in light of the recent changes to the French Code civil Furthermore the book comprises a wealth of translated extracts of legislation cases and academic literature comprehensively covering all aspects of contract law The book was originally published in German to considerable acclaim This English edition has been translated by Gill Mertens building on the work done by the translator of the first edition Tony Weir This edition will be invaluable to scholars and practitioners in The Harmonisation of European Contract Law Stefan Vogenauer, Stephen Weatherill, 2006-03-16 Europe and beyond After an extended period in which the European Community has merely nibbled at the edges of national contract law the bite of a European contract law has lately become more pronounced Many areas of law from competition and consumer law to gender equality law are now the subject of determined efforts at harmonisation though they are perhaps often seen as peripheral to mainstream commercial contract law Despite continuing doubts about the constitutional competence of the Commission to embark on further harmonisation in this area European contract law is now taking shape with the Commission prompting a debate about what it might attempt A central aspect of this book is the report of a remarkable survey carried out by the Oxford Institute of European and Comparative Law in collaboration with Clifford Chance which sought the views of European businesses about the advantages and disadvantages of further harmonisation The final report of this survey brings much needed empirical data to a debate that has thus far lacked clear evidence of this sort The survey is embedded in a range of original and up to date essays by leading European contract scholars reviewing recent developments questioning progress so far and suggesting areas where further analysis and research will be required The Foundations of European Private Law Roger Brownsword, Hans-W. Micklitz, Leone Niglia, Stephen Weatherill, 2011-09-19 There remains an urgent need for a deeper discussion of the theoretical political and federal dimensions of the European codification project While much valuable work has already been undertaken the chapters in this volume take as their starting point the proposition that further reflection and critical thought will enhance the quality and efficacy of the on going work of the various codification bodies The volume contains chapters by representatives of the Common Frame of Reference the Study Group and the Acquis Group as well as by those who have not been involved in particular projects but who have previously commented more

distantly on their work for instance those belonging to the Trento Group and the Social Justice Group The chapters between them represent the most comprehensive attempt so far to survey the state of the codification project its theoretical political Research Handbook on Intellectual and federal foundations and the future prospects for enforcement and compliance Property Licensing Jacques de Werra, 2013-01-01 Transactions involving intellectual property whether by way of out and out assignment or by one of the myriad variants of licensing which are possible are really really important they help the world of business go round But such transactions can be complex with things like national rules preventing alienation getting in the way of bargains people wish to make So it is guite astonishing how sparse the literature on the subject is particularly literature taking a comparative view This book is perhaps the very first of its kind taking as it does perspectives from the major legal systems of the world Moreover its distinguished authors have not written in a technical or abstruse way as academics and some judges can all too easily do Far from it This book is readable and anyone concerned with intellectual property licensing should read it and will find it a pleasure to do so They will also learn a lot about some of the pitfalls and bear traps to be found around the world At UCL we have recognised the importance of this subject This book will be on our students reading list The Rt Hon Sir Robin Jacob UCL Faculty of Laws UK IP licensing underpins the information economy This impressive book brings together leading academic lawyers and practitioners from a range of key jurisdictions to explore a number of major current issues The book is both thoughtful and practical and it is not afraid to call for greater harmonization of IP licensing law It is a must have for all those involved in the field Simon Stokes Blake Lapthorn This Research Handbook provides a valuable mix of practical and theoretical perspectives on IP licensing and will serve as a reference resource for scholars and practitioners in this field of study Francesco Parisi University of Minnesota US and University of Bologna Italy The Handbook brings together a unique collection of world renowned experts providing detailed discussion in every chapter The brilliance of this collective work is found in its broad two dimensional focus beyond patents to all key IP assets on the one hand and country specific discussion for key regions around the world on the other Whether read cover to cover as a compilation of current best practice or used as a true reference guide the Research Handbook on Intellectual Property Licensing is a must have for anyone seeking to capture value from intangible assets From the foreword by James E Malackowski The Research Handbook on Intellectual Property Licensing explores the complexities of intellectual property licensing law from a comparative perspective through the opinions of leading experts This major research tool analyses the features of specific types of licensing agreements and also addresses other practical issues which apply across different types of licensing transactions such as the treatment of licensing in bankruptcy and the use of arbitration for solving licensing disputes The Handbook ultimately provides a scholarly contribution to the development of global intellectual property licensing policies Including transversal and comparative analysis this Handbook will appeal to intellectual property licensing practitioners lawyers and intellectual property and contract law academics Standard Contract Terms in Europe

Hugh Collins,2008-01-01 Ever since the Directive on Unfair Terms in Consumer Contracts of 1993 the European project has been working intensively towards harmonization of contract law across all EU Member States To date virtually none of the many problems that have arisen have been resolved The SECOLA Annual Conference convened in Prague in 2005 to consider the specific topic of unfair terms and to imagine ways in which the obstacles raised by this provocative issue might be overcome In this book which presents revised versions of the papers presented at that conference fourteen outstanding European scholars examine basic questions about the differing conceptions of contract law in the national legal systems of the Member States divergent legal techniques such as interpretation of contract and divergent approaches to legal reasoning and contrasting views about the nature of the problems presented by unfair terms in contracts Among the contentious matters discussed are the following the tension between party autonomy and social justice control over freedom of contract in the name of substantive fairness and efficiency interpretation of contract terms the intrusion of competition law into contract law the disputed meanings of good faith and legitimate expectations the requirement of plain intelligible language and characterization problems Above all the essays ask Can harmonization of European contract law be achieved And if so how The answers offered not only clarify the stage we have arrived at in this ongoing initiative but also identify the essential conflicts that must be understood if we are to secure meaningful regulation of contract terms at a transnational level For these reasons the book is enormously valuable to all parties interested in this crucial component of European integration

Reforming Corporate Retail Investor Protection Diane Bugeja, 2019-12-12 The spate of mis selling episodes that have plagued the financial services industries in recent years has caused widespread detriment to investors Notwithstanding numerous regulatory interventions curtailing the incidence of poor investment advice remains a challenge for regulators particularly because these measures are taken in a fire fighting fashion without adequate consideration being given to the root causes of mis selling Against this backdrop this book focuses on the sale of complex investment products to corporate retail investors by drawing upon the widespread mis selling of interest rate hedging products IRHP in the UK and beyond It brings to the fore the relatively understudied field concerning the different degrees of investor protection mechanisms applicable to individual retail investors as opposed to corporate retail investors by taking stock of past regulatory reforms and forthcoming regulatory initiatives as well as more importantly the conclusions reached by the judiciary in IRHP mis selling claims The conclusions are particularly interesting corporate retail investors are in a vulnerable position when compared to individual retail investors The former are exposed to a heightened risk of mis selling meaning that regulatory intervention should be targeted accordingly The recommendations made as a result of these findings are further supported by insights emerging from behavioural law and economic theories This book is aimed at researchers lawyers and students with an interest in the financial regulation field who are keen to explore potential regulatory reforms to the investment services regime that address the root causes of mis selling and restore a level playing field amongst all retail investors

Contract Interpretation in Investment Treaty Arbitration Yuliya Chernykh, 2022-01-17 Contracts are relevant frequently central for a significant number of investment disputes Yet the way tribunals ascertain their content remains largely underexplored How do tribunals interpret contracts in investment treaty arbitration How should they interpret contracts Does national law have any role to play Contract Interpretation in Investment Treaty Arbitration A Theory of the Incidental Issue addresses these questions The monograph offers a valuable insight into the practice and theory of contract interpretation in investment treaty arbitration By proposing a theoretical frame for seamless integration of contract interpretation into the overall structure of decision making the book contributes to predictability coherence sufficiency and correctness of the tribunals interpretative practices in investment treaty arbitration The Oxford Handbook of Global Legal Pluralism Paul Schiff Berman, 2020-06-01 Over the past two decades Global Legal Pluralism has become one of the leading analytical frameworks for understanding and conceptualizing law in the 21st century Wherever one looks there is conflict among multiple legal regimes Some of these regimes are state based some are built and maintained by non state actors some fall within the purview of local authorities and jurisdictional entities and some involve international courts tribunals and arbitral bodies and regulatory organizations Global Legal Pluralism has provided first and foremost a set of useful analytical tools for describing this conflict among legal and quasi legal systems At the same time some pluralists have also ventured in a more normative direction suggesting that legal systems might sometimes purposely create legal procedures institutions and practices that encourage interaction among multiple communities These scholars argue that pluralist approaches can help foster more shared participation in the practices of law more dialogue across difference and more respect for diversity without requiring assimilation and uniformity Despite the veritable explosion of scholarly work on legal pluralism conflicts of law soft law global constitutionalism the relationships among relative authorities transnational migration and the fragmentation and reinforcement of territorial boundaries no single work has sought to bring together these various scholarly strands place them into dialogue with each other or connect them with the foundational legal pluralism research produced by historians anthropologists and political theorists Paul Schiff Berman one of the world s leading theorists of Global Legal Pluralism has gathered over 40 diverse authors from multiple countries and multiple scholarly disciplines to touch on nearly every area of legal pluralism research offering defenses critiques and applications of legal pluralism to 21st century legal analysis Berman also provides introductions to every part of the book helping to frame the various approaches and perspectives The result is the first comprehensive review of Global Legal Pluralism scholarship ever produced This book will be a must have for scholars and students seeking to understand the insights of legal pluralism to contemporary debates about law At the same time this volume will help energize and engage the field of Global Legal Pluralism and push this scholarly trajectory forward into another two decades of innovation *Principles of European* Contract Law: Prepared by the Commission on European Contract Law Chairman Ole Lando Ole Lando, 1995-04-26 Prepared

by the Commission on European Contract Law chairman Ole Lando The Principles of European Contract Law and Dutch Law: A Commentary Ewoud H. Hondius, H. J. Van Kooten, 2002-08-27 The topic of harmonisation of European private law and European contract law in particular is rapidly gaining in importance The topic is not only widely studied by academics and students all over Europe and even beyond it is also on the political agenda of the European Parliament the European Commission and the European Council The most important achievement in this field is no doubt the Principles of European Contract Law PECL drafted by the Commission on European Contract Law The European Commission considers the PECL to be a serious option for further harmonisation of European contract law within the European Union This publication is the first to provide a systematic overview of the PECL in comparison with Dutch contract law as a whole The book is concise and because of its structure it is easily accessible Amongst the contributors there are many highly distinguished contract law specialists It may be used at universities in courses on Comparative Law European Private Law and European Contract Law It may also be used by international practitioners foreign students and academics interested in Dutch contract law who do not have access to Dutch contract law because they have no knowledge of the Dutch language Last but not least the book will be of interest to all jurists interested in the harmonisation of the European Private Law **Uniform Rules for European Contract Law?** Francisco de Elizalde, 2018-06-28 Over the last 30 years the evolution of acquis communautaire in consumer law and harmonising soft law proposals have utterly transformed the landscape of European contract law The initial enthusiasm and approval for the EU programme has waned and post Brexit it currently faces increasing criticism over its effectiveness In this collection leading academics assess the project and ask if such judgements are fair and suggest how harmonisation in the field might be better achieved This book looks at the uniform rules in the context of the internal market national legislators and courts bridging the gap between common and civil law and finally their influence on non member states Critical and rigorous it provides a timely and unflinching critique of one of the most important fields of harmonisation in the European Union

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