

The Principles of Mutual Trust in European Union Law

Are Reciprocal Principles Creating a Culture of the Law?

Caroline M. Fennelly

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Principles Of European Trust Law

**Michele Graziadei, Ugo Mattei, Lionel
Smith**



Principles Of European Trust Law:

Principles of European Trust Law David J. Hayton, Sebastianus Constantinus Johannes Josephus Kortmann, H. L. E. Verhagen, 1999-01-01 Since the ratification of the Hague Trust Convention by the Netherlands Italy the question of whether civil law countries ought to have a trust or a legal institution resembling it has gained importance The Business Law Research Centre at the University of Nijmegen founded an international working group of experts in the field of trust law in 1996 This group developed eight principles of European trust law designed to facilitate transactions within European jurisdictions to enable countries to recognise the potential for the development of new domestic legal concepts to provide guidance as to how these developments can be framed in different legal socio economic contexts This book provides a detailed analysis of these principles both from a common law a civil law point of view In particular the national reports give an overview of the current law relating to trusts fiduciary relationships and in the case of civil law jurisdictions whether the trust concept can be incorporated in the domestic legal systems on the basis of the eight principles **Extending the**

Boundaries of Trust and Similar Ring-Fenced Funds David Hayton, 2002-07-19 Virtually every jurisdiction today is busy developing private international law rules to deal with trusts and similar ring fenced structures With the increasing impact of globalisation business interests throughout the world are intent on maximising the potential of such structures for raising funds lowering risks and cutting costs As a result numerous complex issues involving the traditional categories of settlor beneficiary and fiduciary are being radically transformed Extending the Boundaries of Trusts and Similar Ring Fenced Funds offers valuable analyses by sixteen well known authorities in the field of a broad range of trust related issues The many important insights in this book reveal the workings of such issues as the following the disappearing divergence between common law and civil law jurisdictions in the matter of trusts using the segregated fund concept to manage the risk of insolvency the demise of the amateur trustee in the charitable trust sector why loss to the fund supersedes particular losses of beneficiaries the legal dimensions of hiding ownership by giving property to trustees the intervention of public policy in questions of perpetuity the selective imposition of OECD and FTF transparency initiatives on offshore jurisdictions and policing of trustee behaviour by beneficiaries Lawyers bankers and others dealing with investment and business finance will find much information as well as food for thought in this fascinating book as will those involved in the traditional trust industry whether as trustees or lawyers or fund managers Most of the essays in this outstanding thematic collection were originally prepared for presentation at a conference held in 2001 at King s College London **Trust Law in Asian Civil**

Law Jurisdictions Lusina Ho, Rebecca Lee, 2013-07-11 This book analyses and compares Asian trust laws to critically evaluate Asian approaches to the reception of the trust **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

Elgar Encyclopedia of Comparative Law, Second Edition J. M. Smits, 2012-01-01 Acclaim for the first edition This is a very important and immense book The Elgar Encyclopedia of Comparative Law is a treasure trove of honed knowledge of the laws of many countries It is a reference book for dipping into time and time again It is worth every penny and there is not another as comprehensive in its coverage as Elgar's I highly recommend the Elgar Encyclopedia of Comparative Law to all English chambers This is a very important book that should be sitting in every university law school library

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Principles of International Insolvency Philip R. Wood, 2007 This title covers the essentials of international insolvency with a very practical slant providing the reader with a comparative overview of insolvency law and practice in the key jurisdictions of the world The intention is to illustrate how the concepts and analyses raised throughout The Law and Practice of International Finance series may be applied in a real world setting

'Principles of European Trust Law' and 'Draft Directive on Protective Funds' Kenneth Reid, 2020 This is a transcript of an interview with Professor Kenneth Reid on the issues related to Principles of European Trust law and Draft Directive on Protective Funds held in August 2010 in Professor Reid's office at the University of Edinburgh Professor Reid is an authority on property law and feudal law in

Scotland and he is also one of key persons in the movement of integrating trust law in Europe

Commercial Trusts in European Private Law Michele Graziadei, Ugo Mattei, Lionel Smith, 2005-11-03 In European legal systems a variety of approaches to trust and relationships of trust meet the universal professionalisation of asset management services This book explores that interface in order to seek a better understanding of the legal regulation of the entrustment of wealth Within the methodology of the Common Core of European Private Law the book sets out cases on the establishment and termination of management relationships obligations of loyalty and of professionalism and the choice of law More specialized cases address collective investment collective secured lending pension funds and securitisation Reports on these cases from fifteen jurisdictions of the European Union tackle fundamental problems of trust law and show which legal techniques are deployed to solve them across Europe In addition to a much needed comparative treatment of the subject the book discusses the scholarly setting for the issues and gives guidance on the terminology in the evolving European scene

The Problematic Structure of Management of Co-Owned Properties in Turkish Law and Pursuance of Solutions Eylem Apaydin, 2011-01-18 This book provides a critical evaluation of the statutory framework for co ownership regulations in Turkish law and it acquaints Turkish jurists with the existence of trust of land in English law It is posited upon the argument that solutions to the problems observed in the administration and enjoyment of co owned properties in Turkish law may be overcome by the introduction of a new institution which is inspired by the trust mechanism in English law This renders the existing Turkish regulation for the management of the co owned properties outdated unreasonably complex and extremely artificial with some assumptions After successfully establishing that the Turkish system is currently inadequate to provide an efficient system this book provides the indications for a solution Being aware of the limitations of the Turkish legal system and the restricted possibility of the direct reception of trust this book examines to what extent the current institutions in Turkish law would replace the functions of trust in the context of co ownership This examination results in searching for a new system as it is concluded that any of the trust like devices in the current Turkish law could not effectively and comprehensively serve the purposes that the English trust does Therefore this book suggests that a new mechanism inspired by the English trust of land would provide the required mechanisms for an efficient managerial system for co owned properties Rather than asserting to solely focus on a comprehensive new system this book discusses the possible solutions and urges further research about the matter Hence the so called alien system trust of land and its capability to provide an alternative but efficient and productive solution to the managerial problems of the co owned properties would be made familiar with the Turkish jurists

The Worlds of the Trust Lionel Smith, 2013-08-22 Despite the common belief that they are found only in the common law tradition trusts have long been known in mixed jurisdictions even where they have a civilian law of property Trusts have now been introduced by legislation in a number of civilian jurisdictions such as France and China Other recent developments include the reception of foreign trusts through private international law in Italy and Switzerland

and the inclusion of a chapter on trusts in Europe's Draft Common Frame of Reference. As a result, there is a growing interest in the ways in which the trust can be accommodated in civil law systems. This collection explores this question as well as general issues such as the juridical nature of the trust, the role and qualifications of the trustee and particular developments in specific jurisdictions.

Trusts and Patrimonies Remus Valsan, 2015-06-17. Focusing on the private law of England, Scotland, France, Quebec and the Netherlands, this volume explores how the private law concepts of trust and patrimony interact in various jurisdictions with a view to advancing the understanding of the trust as a fundamental legal concept. It comprises new and previously published papers written by distinguished comparative law scholars. The authors investigate whether the common law trust could be understood as a civil law patrimony by appropriation and whether civil law and mixed traditions could create local versions of the common law trust using patrimony as the main conceptual building block.

The Making of European Private Law J. M. Smits, 2002. The private law of the Member States of the European Union has become more and more European. The fact that the European Union is making ever more use of directives as an instrument to achieve private law goals is in this context not the most important development. Of much more substance is the fact that one increasingly realises that a uniform European private law has to be created in one way or another in the near future if a truly common European market is to function at all. Over the last decade, Europe has witnessed the emergence of a vigorous debate about the need for and the feasibility of a future European *ius commune* in the field of private law. This book critically discusses this debate and provides a systematic overview of the various initiatives taken and describes the fragmentary European private law that already exists by way of European directives, international conventions etc. In addition, the author aims at making a contribution to the debate by suggesting that the experience, good or bad, of the so-called mixed legal systems is of great importance to the European private law venture and to the development of a uniform private law for Europe. This idea is supported by insights from Law Economics and illustrated by South African law in particular. This idea of European private law as a mixed legal system is then applied to the law of contracts, torts and property. This book takes up the challenge to give a critical examination of the various methods of creating this *ius commune*. A detailed table of contents, list of abbreviations, bibliography, table of cases and index complete the book and make it a valuable study for everyone interested in European private law.

The Commercial Uses of Trusts Ruiqiao Zhang, 2024-10-31. This book provides a systematic and critical analysis of the role trusts play in modern commercial markets. Commercial trusts are complex and ever evolving, and a reassessment of the traditional legal norms relating to them is much needed in order to provide new doctrinal insights. The book does just that, focusing on trusts in the UK while drawing on developments in European jurisdictions and in China. It presents a thought-provoking assessment and a unified understanding of commercial trusts.

Lexicon of Trust & Foundation Practice John Goldsworth, 2016. *Lexicon of Trust Foundation Practice* provides essential support for trustees, trust advisers, private bankers, insurers, estate practitioners and all those who need to know the

meanings and importance of words and expressions concerned with trusts private foundations and asset planning vehicles

The Hague Trusts Convention Jonathan Harris, 2002-05-04 Trusts cross borders When they do real difficulties may arise Will the understanding of what a trust is be different in a foreign state Will the rights powers and duties of the trustee and settlor be the same What rights will the beneficiary be able to assert To what extent will the trust assets be safe from the claims of creditors forced heirs or third parties Which legal system will be applied to the trust Within what limits What if the trust needs to be recognised in a state which does not have the institution of the trust in its domestic law The Hague Trusts Convention enacted into English law by the Recognition of Trusts Act 1987 seeks to ameliorate the situation by providing harmonised choice of law rules for trusts created voluntarily and evidenced in writing It also provides for the recognition of trusts in Contracting States Those Contracting States should recognise the trust even if they do not have the institution in their domestic law This book is the first published in England to devote itself to a detailed analysis of the Convention It is aimed at academics and practitioners at private international lawyers and at trust lawyers Frequent reference is made to the position in civil law states especially in the Contracting States of Italy and the Netherlands and in other trust states both offshore and onshore The Hague Trusts Convention deals with the operation of the trust itself It does not deal with the preliminary steps needed to create a trust These preliminary matters raise highly complex and uncharted choice of law issues Detailed discussion of these matters is also provided and appropriate solutions suggested Breach of Trust Peter Birks, Arianna Pretto-Sakmann, 2002-07-05 Recent leading cases have demonstrated the urgent need to modernize the learning on breach of trust which has lagged behind the flourishing scholarship on the creation of trusts Since breach of trust or fiduciary duty occupies the centre of the legal stage it comes as a surprise that although one or two novelists have chosen Breach of Trust as the title to their book no lawyer has so far thought it necessary to produce a specialized work on the subject To fill the gap this book written by a team of leading trust lawyers from a number of common law jurisdictions investigates all the principal aspects of the subject The nature of the trustee's duties and of the liability for breach is closely examined and all available defences and excuses are reviewed Two substantial chapters consider the consequences of assisting a breach or receiving trust property from a trustee acting in breach The book closes with a critical overview of the entire topic CONTENTS 1 Robert Chambers Liability for Breach 2 Joshua Getzler The Duty of Care 3 Edwin Simpson The Conflict of Interest 4 David Fox Overreaching 5 Lionel Smith Property Transferred in Breach 6 Charles Mitchell Assistance 7 Peter Birks Receipt 8 James Penner Exemption clauses 9 John Lowry and Rod Edmunds Honest and Reasonable Breach 10 Jennifer Payne Consent 11 William Swadling Limitation 12 Gary Watt Laches Estoppel and Election 13 David Hayton An Overview Asia-Pacific Trusts Law, Volume 3 Ying Khai Liew, Masayuki Tamaruya, 2025-05-15 This collection explores the boundaries of trusts law in the Asia Pacific region It is uncontroversial to state that the region's jurisdictions are diverse reflecting a mix of histories economies politics and legal systems The essays in this collection illustrate how this diversity is

reflected in trusts law But this thematic and systematic exploration from a region wide perspective also identifies patterns of commonality in those factors which limit the operation of trusts law particularly as jurisdictions encounter domestic and international challenges By charting both convergence and divergence this study is pivotal in shaping and guiding the future development of trusts law in the region

Ordering Pluralism Mireille Delmas-Marty, 2009-08-25 From the viewpoint of the constitutional crisis in Europe slow UN reforms difficulties implementing the Kyoto Protocol and the International Criminal Court and tensions between human rights and trade Mireille Delmas Marty s journey through the legal landscape of the early years of the 21st century shows it to be dominated by imprecision uncertainty and instability The early 21st century appears to be the era of great disorder in the silence of the market and the fracas of arms a world overly fragmented by anarchical globalisation is being unified too quickly through hegemonic integration How she asks can we move beyond the relative and the universal to build order without imposing it to accept pluralism without giving up on a common law Neither utopian fusion nor illusory autonomy Ordering Pluralism is her answer both an epistemological revolution and an art it means creating a common legal area by progressive adjustments that preserve diversity Since an immutable world order is impossible the imaginative forces of law must be called upon to invent a flexible process of harmonisation that leaves room for believing we can agree on and protect common values The book is timely and relevant to the practical concerns of those who work with and within the legal system We must thank Professor Delmas Marty for her fine work From the foreword

Stephen Breyer Washington DC

Equity and Trusts Alastair Hudson, 2016-07-15 Alastair Hudson s Equity and Trusts is an ideal textbook for undergraduate courses on the law of trusts and equitable remedies It provides a clear current and comprehensive account of the subject The author s enthusiasm and expertise shine through helping to bring to life an area of the law which students often find challenging This Ninth Edition has been extensively re written but remains the same book in spirit as it has always been It contains an analysis of the important decisions of the Supreme Court in FHR European Ventures v Cedar Capital Jones v Kernott and Williams v Central Bank of Nigeria and the important decisions in Charity Commission v Framjee Rawstron v Freud Patel v Mirza Federal Republic of Brazil v Durant Hodkin Novoship v Mihaylyuk National Crime Agency v Robb St Andrews Cheam Lawn Tennis Club the after effects of the Lehman Brothers collapse and analysis of many other new cases besides Equity and Trusts remains the most comprehensive and up to date coverage of the law of Equity and Trusts while still a lively and thoughtful account of the issues raised by it This book has been cited as being authoritative in the courts of numerous countries The ninth edition is supported by the author s website at www.alastairhudson.com with brand new resources including short podcasts discussing and clarifying key topics from within the book which cover an entire course complete lecture recordings made specifically to accompany this book New video documentaries bringing to life selected key topics A host of other online materials and study guides new for 2016 Review of a previous edition One of the book s great strengths is its clear exposition of some very difficult areas of the law moving

seamlessly from points that puzzle students to points that puzzle practitioners Other strengths are the breadth of its approach the fact that it is extremely up to date the freshness and vividness of its approach and its willingness to place equity in a wider context The student will enjoy a clear lively and challenging account of the subject matter The practitioner will find the book well worth consulting for its clear exposition of the basic principles and of their application in difficult areas

New Law Journal **The Economic Structure of Trusts** M. W. Lau, 2011-01-13 Providing an economic account of why trusts exist and how trust law should be shaped this book explains the economic benefits of trusts as an extension of the law of property arguing against accounts of trusts law grounded in the law of personal obligations The theoretical model is then used to criticise recent developments in the law

Principles Of European Trust Law Book Review: Unveiling the Power of Words

In a global driven by information and connectivity, the ability of words has are more evident than ever. They have the capacity to inspire, provoke, and ignite change. Such is the essence of the book **Principles Of European Trust Law**, a literary masterpiece that delves deep into the significance of words and their impact on our lives. Compiled by a renowned author, this captivating work takes readers on a transformative journey, unraveling the secrets and potential behind every word. In this review, we will explore the book is key themes, examine its writing style, and analyze its overall effect on readers.

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