

Regulating contracts

- The issue of enforceability of contracts is part of the more general issue of when contracts should be regulated by the courts (as opposed to gap-filling that we studied before)
- Generally, **rational parties** should be allowed to enter into **voluntary contracts** as long as these contracts do not produce significant **negative externalities** and as long as enforceability of these contracts does not result in significant **transaction costs**
- Conditions:
 - rational parties
 - voluntary nature
 - no significant negative externalities, and
 - no significant transaction costs of enforcement

Regulating Contracts

Fabrizio Cafaggi,,Stephanie Law

Regulating Contracts:

Regulating Contracts Hugh Collins, 2002 Using an interdisciplinary approach involving economics sociology and law *Regulating Contracts* explores fundamental questions about the purposes and effects of legal regulation of contractual relationships What kind of social relation do contracts create or more precisely how do contracts govern social interaction How are contractual relations or more generally markets constructed Does the law play a significant role in particular practices and in particular what do lawyers courts and legal sanctions contribute to the contractual social order For what distributive purposes does the law attempt regulation The controversial conclusions of this study suggest that the law plays an insignificant role in the construction of markets and that law and lawyers could provide better assistance by using indeterminate regulation that permits the recontextualization of legal reasoning Legal regulation of contracts concerned with redistributive tasks such as redressing unfairness countering unjust power relations and improving access to justice is evaluated both with respect to the objectives of regulation and the search for the most efficient and efficacious form of regulation The argument in the book is that control of unfairness is both desirable and practicable that power relations should be modified for the sake of efficiency and that better access to justice is unhelpful to the resolution of contractual disputes

Regulation by Contract Tonci Bakovic, Bernard William Tenenbaum, Fiona Woolf, 2003-01-01 Governments and investors in many developing countries have criticised the performance of recently privatised electricity distribution companies particularly in relation to the design of regulatory systems This report examines whether regulation by contract or a combination of regulation by contract and regulatory independence would provide a better option

Regulating Blockchain Philipp Hacker, Ioannis Lianos, Georgios Dimitropoulos, Stefan Eich, 2019 The aim of this book is to understand the technological and business potential of the blockchain technology and to reflect on its legal challenges providing an unparalleled critical analysis of the disruptive potential of this technology for the economy and the legal system

Better Regulation in EU Contract Law Esther van Schagen, Stephen Weatherill, 2019-12-26 This book is the first to provide a critical investigation of EU better regulation from the perspective of EU contract law The Commission's New Deal for EU Consumers is one of the first EU contract law initiatives to implement both the newly revised Better Regulation Guidelines and the newly introduced combined evaluation of multiple Directives in the form of a fitness check This offers an opportunity to explore difficulties and best practices at a national level as demonstrated by experience with the EU's Unfair Terms Directive Both the fitness check and the impact assessment accompanying the New Deal should facilitate critical reflection on the design of EU contract law This book addresses key questions Do impact assessments favour business interests at the expense of a high level of consumer protection Is the evaluation of EU contract law and the analysis in impact assessments in line with scientific standards Has the fitness check revealed difficulties and success stories with EU measures at national level and thereby facilitated an in depth scrutiny of the design of EU contract law Ultimately is the potential of better regulation being

realised

Contract and Regulation Roger Brownsword, Rob A.J. van Gestel, Hans-W. Micklitz, 2017-09-29 Contract and Regulation A Handbook on New Methods of Law Making in Private Law sheds light on the darker side of contracts It begins by exploring the regulatory space in which projects are planned deals are done and goods and services are consumed then shows how a bottom up approach can be adopted in order to view this transactional space through the eyes of contractors The expert contributors explore modes of governance that do not fit nicely into traditional contract theory paying special attention to three key examples governance and codes of conduction networks and relations compliance and use

The Regulation of Franchising in the New Global Economy Elizabeth Crawford Spencer, 2010-01-01 While franchising promotes economic and social welfare objectives Elizabeth Crawford Spencer argues that monitoring and regulation are needed to address potential areas of abuse of the form that can result in costly market inefficiencies This unique study surveys franchise specific legislation worldwide as a starting point for a thorough examination and analysis of the role of both private and public regulation of the sector in the context of current theoretical approaches to regulating contractual relationships The book concludes that properly calibrated regulation can minimize inefficient allocations of power and risk and lead to maximum economic and social benefits by promoting the development of small business enabling the growth of entrepreneurial skills and facilitating economic well being and independence among SMEs This comparative survey will prove to be invaluable for academics in franchising marketing management law and practice The Regulation of Franchising in the New Global Economy will also appeal to franchise law practitioners consultants policymakers and those wishing to influence policy on all sides of the debate in the many jurisdictions that are engaging in the processes of adopting or reviewing franchise regulation

Enabling regulatory frameworks for contract farming Food and Agriculture Organization of the United Nations, 2019-03-11 FAO's previous contribution to the development of contract farming saw the publication in 2015 of the UNIDROIT FAO IFAD Legal Guide on Contract Farming which focused on the bilateral relationship between an agricultural producer and a contractor This Legislative Study develops that research and focuses on the regulatory frameworks for contract farming aiming to highlight different possible approaches for different contexts Responsible contract farming can be a powerful tool for small scale farmers in developing countries to move towards larger scale commercial production It can create economic wealth contribute to supply chain efficiency through the production of higher quantities of better quality products and contribute to achieving domestic food security objectives Maximizing these benefits while minimizing the inherent risks of contract farming is reliant upon the forging of an enabling environment a key part of which is the domestic regulatory framework This Legislative Study provides guidance to domestic regulators and other interested readers on how to appraise and potentially reform domestic regulatory frameworks to achieve responsible contract farming Recognising that different countries and contextual realities may benefit from different regulatory solutions this Study provides several examples supported by representative case studies on how contract farming can be regulated without

promoting a single solution as the most appropriate Please visit FAO s Contract Farming Resource Centre <http://www.fao.org/in-action/contract-farming/en> which is a regularly updated website hosting a variety of material on contract farming both from FAO and from other recognized authors

Regulating Utilities Colin Robinson, 2001-01-01 Every year the Institute of Economic Affairs and the London Business School publish a volume of essays about Britain s system of utility regulation with additional discussion of regulation in other countries The book is a must for those interested in regulation because it is an up to date review of the major issues in the field and includes the views of the sector regulators and the general competition authorities

Contract Governance Stefan Grundmann, Florian Mösslein, Karl Riesenhuber, 2015-07-23 This book introduces and develops Contract Governance as a new approach to contract theory While the concept of governance has already been developed in Williamson s seminal article it has ironically not received much attention in general contract law theory Indeed Contract Governance appears to be an important and necessary complement to corporate governance and in fact as the second equally important pillar of governance research in the core of private law With this in mind Grundmann Mösslein and Riesenhuber provide a novel approach in setting an international and interdisciplinary research agenda for developing contract law scholarship Contract Governance focuses particularly on the ways in which a governance perspective leads to research questions that have been neglected in traditional contract law scholarship and how from a governance perspective the questions are dealt with in a different manner and style Combining substantive chapters and commentaries this collection of essays addresses an array of topics including third party impact and contract governance problems in herd behaviour governance of networks of contracts governance in long term contractual relationships contract governance and rule setting and contract governance and political dimensions

Contract Law Minimalism Jonathan Morgan, 2013-11-07 Commercial contract law is in every sense optional given the choice between legal systems and law and arbitration Its doctrines are in fact virtually all default rules Contract Law Minimalism advances the thesis that commercial parties prefer a minimalist law that sets out to enforce what they have decided but does nothing else The limited capacity of the legal process is the key to this minimalist stance This book considers evidence that such minimalism is indeed what commercial parties choose to govern their transactions It critically engages with alternative schools of thought that call for active regulation of contracts to promote either economic efficiency or the trust and co operation necessary for relational contracting The book also necessarily argues against the view that private law should be understood non instrumentally whether through promissory morality corrective justice taxonomic rationality or otherwise It sketches a restatement of English contract law in line with the thesis

The Transformation of Private Law - Principles of Contract and Tort as European and International Law Maren Heidemann, 2024-04-20 Eminent lawyers from academia international judiciary and legal practice join up to honour Professor Mads Andenas KC Hon Contributions form a cutting edge volume across legal disciplines led by an advisory editorial committee including Prof Guido Alpa Prof Carl Baudenbacher Prof Eirik Bjorge Prof

Giuseppe Conte and Prof Duncan Fairgrieve The general private law of tort and delict is subject to a transformation where the traditional national framework is becoming gradually less relevant Much of the modernisation of private law takes place not at the domestic level but at a European or international level such as in international commercial conventions or EU consumer protection legislation Remedies in regulatory law are becoming ever more important The role of the European Court of Justice in developing general principles of contract and tort is ever increasing Tort liability is an important subject of international conventions with the caselaw of the International Court of Justice developing general principles of tort liability in public international law Regulation in Asia John Gillespie,Randall Peerenboom,2009-06-08 Covering a wide variety of Asian countries this book explores the complex economic and regulatory factors that generate social demand for state regulation and shows how local networks courts democratic processes and civil society have a huge influence on regulatory systems **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 and federal foundations and the future prospects for enforcement and compliance **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 *Judicial Cooperation in European Private Law* Fabrizio Cafaggi,,Stephanie Law,2017-05-26 Notwithstanding recent increases in the scope for judicial cooperation and dialogue between European courts little research has been undertaken into the impact of the jurisprudence of the European Court of Justice and the dialogue that arises therefrom in national legal systems between courts and regulators This coherent collection of original chapters provides unique insights into these developments with a particular focus on consumer law from a broad range of stakeholders including academics and judges from the EU and the US *The Political Economy of Local Regulation* Alberto Asquer,Franco Becchis,Daniele Russolillo,2016-10-26 This book offers theoretical and methodological guidelines for researching the complex regulation of local infrastructure utilities and public services in the context of rapid urbanisation technological change and climate change It examines the interactions between regulators public officers infrastructure and utilities firms public service providers citizens and civil society organisations It contains contributions from academics and practitioners from various disciplinary perspectives and from many regions of the world illustrated with case studies from several sectors including water natural gas and electricity distribution local public transport district heating urban waste and environmental services *Contract Law and the Legislature* TT Arvind,Jenny Steele,2020-08-06 This volume revisits some of the key debates about the nature and shape of contract law in light of the impact that statutes have had on its development With contributions from leading contract law scholars it fills a significant gap in existing theoretical and doctrinal analyses of contract law which rely primarily on cases to put forward accounts of the general principles and structure of contract law Statutory rules are typically seen as being specific instances of legal regulation that carve out exceptions to these general principles for specific reasons of policy This treatment of these rules has resulted in an incomplete understanding of the nature of contract law and the principles that underpin it By drawing specifically on contract statutes the volume produces a more complete picture of modern contract law A companion to the ground breaking *Tort Law and the Legislature* Common Law Statute and the Dynamics of Legal Change Hart Publishing 2012 this collection will have a significant impact on the study of contract law **Justifying Contract in Europe** Martijn Willem Hesselink,2021 This title uses contemporary political theories to address fundamental questions on European contract law It also places these theories in the context of the current European contract law landscape This book highlights future options for contract law in the EU and how it may need to change **Law and Responsible Supply Chain Management** Vibe Ulfbeck,Alexandra Andhov,Kateřina Mitkidis,2019-01-10 Corporate Social Responsibility has for long been on the agenda in the business world and recently it has also become a political agenda in the European Union Focusing on international supply

chains and their control based on studies of law in several European jurisdictions this book aims to advance the discussion on the application and enforcement of CSR Drawing parallels to US and Canadian law the book explores to what extent private law tools can be used as an enforcement device and it ultimately asks if what we are witnessing is the formation of a new area of law employing the interplay of contract and tort a law of production liability as a corollary of the concept of product liability

Contract Law Neil Andrews, 2011-05-26 This textbook takes a fresh approach to contract law as a first edition it reflects the subject in the 21st century more accurately than other texts Comprehensive and scholarly it maps the curriculum perfectly but detailed references and further reading sections encourage students to explore the subject further Understanding is paramount and chapter introductions clearly guide students through the material The textbook takes an innovative approach to case law breaking down and discussing individual elements of a case and selecting short key extracts it gives students the tools to read cases independently and with confidence An examination of the historical and theoretical foundations of the subject and a concluding chapter tracking emerging fields ensure the broadest possible perspective Discussion of key recent cases such as Durham Tess Valley Airport 2010 and Chartbrook 2009 make this important new text a must for contract law students

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