

The Principles of European Contract Law (Part III) and Dutch Law

A Commentary II

Edited by
Danny Busch,
Ewoud Hondius,
Hugo van Kooten,
Harriët Schelhaas (General Editor)

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Principles Of European Contract Law And Dutch Law

Nils Jansen, Reinhard Zimmermann



Principles Of European Contract Law And Dutch Law:

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. **The Principles of European Contract Law and Dutch Law**, 2002

The Principles of European Contract Law (Part III) and Dutch Law Harriët N. Schelhaas, 2006-01-01 The Principles of European Contract Law prepared by the so-called Lando Commission today constitute the most advanced project on the harmonisation of European private law. As well as providing a set of rules which could facilitate cross-border trade within Europe, the Principles can be seen as a modern *lex mercatoria* which for example could be referred to by arbitrators deciding a case according to internationally accepted principles of law. Furthermore, the Principles provide a framework for EU legislation on contract law and more importantly they can be viewed as a first step towards a European Civil Code. They may also prove to be a catalyst for the development of national legislation, judicial decisions and legal doctrine. This new title, which follows the first volume covering Parts I and II of the Principles, includes chapters on plurality of parties, assignment of claims, transfer of contract, set-off, prescription, illegality and conditions. It provides a systematic overview of the Principles in comparison with Dutch law, which will be of interest not only in the Netherlands but also to lawyers in other countries who need to gain a clearer understanding of the Dutch contract law system. *Principles of European Contract Law* Commission on European Contract Law, 2000-01-01 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. *Principles of*

European Contract Law and Italian Law Luisa Antonioli, 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 statutes 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 effects performance non 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 **The Principles of European Contract Law**

Ole Lando, 2023-09-29 An arbitrator has to 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 States An EU official is drafting a new Directive affecting contracts A 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 revised and re ordered form *Indirect Representation in European Contract Law* Danny Busch, 2005-01-01 Over the last few years increasing attention continues to be paid to the Principles of European Contract Law otherwise known as the Principles the Lando Principles or PECL The drafters of the Principles presented their work in the form of articles accompanied by explanatory notes averring that the main purpose of the instrument is to serve as a basis for a future European contract law Can the Lando Principles as their drafters claim indeed offer an acceptable basis for a future European contract law Dr Busch both scholar and practitioner offers a detailed analysis in response to this question of the contractual aspects of indirect representation Arts 3 301 304 PECL He evaluates these provisions in the light of Dutch German and English law as well as with reference to the Geneva Convention on Agency in the International Sale of Goods To introduce this important comparative study and make the background as complete as possible this book devotes separate chapters to thorough discussions of indirect representation in Dutch law middellijke vertegenwoordiging Arts 7 419 421 Dutch Civil Code in German law mittelbare Stellvertretung and in the English doctrine of the undisclosed principal Lawyers in Europe and elsewhere who must deal with contract law in any connection will find this thoroughly researched and well thought out text to be indispensable Its value as a scholarly analysis can only grow with the coming years D Busch b 1974 graduated cum laude in Dutch law from the University of Utrecht in 1997 He attained the title of Magister Juris in European and Comparative Law at the University of Oxford St John s College in 1998 and defended his dissertation in 2002 at the University of Utrecht Until the end of 2001 he was attached as lecturer and researcher to the Molengraaff Institute of Private Law in Utrecht Since 2002 he has worked as an attorney at law for the law office of De Brauw Blackstone Westbroek in Amsterdam He has also been an honorary senior lecturer at the Molengraaff Institute since 2004 Principles of European Contract Law 3 The Principles of European Contract Law Before the Supreme Court of the Netherlands Danny Busch, 2018 Most Dutch law faculties now devote some degree of attention to the Principles of European Contract Law in their teaching and research The Principles are therefore receiving sufficient coverage in university circles No doubt this is welcome news for their drafters But what influence do the PECL actually have in Dutch legal practice This is the question I shall try to answer in this article **Fundamental Rights in European Contract Law** Chantal Mak, 2008-01-01 Our modern insistence on democratic social values has engendered an intense debate over the intersection of fundamental rights and contract law In particular case law in several European national jurisdictions has exerted

significant pressure on traditional contract law instruments to conform more transparently with the fundamental rights enshrined in the EC Charter This pressure is clearly evident in a number of societal areas subject to contract law among them employment housing and privacy It can even be argued as this author does that fundamental rights intermediate between politics and law Taking its cue from many initiatives toward the development of a more coherent even harmonised European contract law this book is the first major study to examine the following essential questions with detailed reference to actual judicial developments To what extent do fundamental rights affect contract law In which types of cases can fundamental rights be applied What does the explicit consideration of fundamental rights add to contract law adjudication The author approaches the analysis along two different avenues first a comparative overview of developments in case law and second a more general theoretical view on the interaction between fundamental rights and rules of contract law which is tested against examples from various legal systems The focus throughout is on developments in case law because the impact of fundamental rights in contract law has been felt on the level of dispute resolution rather than on the level of legislation Germany and the Netherlands are chosen because their judiciaries have been notable for their early and continuing attention to the theme and England and Italy for perspectives on developments under common law and civil law systems respectively

European Contract Law Hector MacQueen, 2019-08-05 This volume tests the claim that as combinations of Civil and Common Law influences the mixed systems of contract law in Scotland and South Africa have anticipated the content of the Principles of European Contract Law PECL concluded and published in 2003 by the unofficial Commission on European Contract Law Going further it rigorously explores what the implications of a Europe wide contract law would be The current official moves towards a European contract law within the European Union make the critiques of PECL in this volume especially urgent and significant With a European contract law nearer to reality than ever before mere policy critiques are no longer enough This book provides the essential technical and substantive assessments of PECL from the perspective of Scots and South African contract lawyers and is offered to the European debate without prejudice as to the deeper policy questions At the same time this volume will inform Scots and South African lawyers about the substance of international developments in the field and suggest ways to develop their still vigorous and vital national laws to remain in step with the needs of the present day

Principles of European Contract Law : Prepared by the Commission on European Contract Law
Chairman Ole Lando Ole Lando, 1995-04-26 *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 Is Codification Needed in Europe? Ole Lando, Handelshøjskolen i København. Juridisk Institut, 1993

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

Research Handbook on International Commercial Contracts Andrew Hutchison, Franziska Myburgh, 2020-12-25 This comprehensive Research Handbook examines the continuum between private ordering and state regulation in the lex mercatoria highlighting constancy and change in this dynamic and evolving system in order to offer an in depth discussion of international commercial contract law International scholars from a range of jurisdictions and legal cultures across Africa North America and Europe dissect a plethora of contract types including sale insurance shipping credit negotiable instruments and agency against the backdrop of key legal regimes commonly chosen in international agreements

Swedish Perspectives on Private Law Europeanisation Annina H Persson, Eleonor Kristoffersson, 2017-01-12 As part of the European integration an ambitious programme of harmonisation of European private law is taking place This new edition in the Swedish Studies in European Law series the work of both legal scholars and politicians aims to create a modern codification in the tradition of the great continental codifications such as the BGB and the Code Civil A significant step towards this development was taken in 2009 with the creation of the Draft Common Frame of Reference which contains model rules for a large part of central private law The process raises a number of questions What are the advantages and disadvantages of such an intensive process of harmonisation Are there lessons to be learnt from the Europeanisation of private law through history Are there any further steps which have been taken in order to create a European private law What is the future of European private law These crucial questions were discussed at a conference in Stockholm sponsored by the Swedish Network of European Legal Studies This important volume includes the answers offered by leading scholars in the field

Sales Ewoud Hondius, Viola Heutger, Christoph Jeloschek, Hanna Sivesand, Aneta Wiewiorowska, 2009-04-27 The rules presented in this volume of the Principles of European Law deal with sales contracts The sales contract has served as the paradigm for contracts in general Moreover it is also probably the most common contract and certainly the most common consumer contract that there is In fact sales come in all shapes and sizes ranging from the purchase of the daily

newspaper at the news stand or the groceries in the supermarket through to the purchase of a new car and to commodity sales on highly specialised markets Furthermore there are many mixed transactions that contain a certain element of sale such as distribution contracts or all sorts of manufacturing contracts *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 quickly growing *acquis 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 **Rules and Networks** Richard Appelbaum, William Felstiner, Volkmar Gessner, 2001-12-21

International business transactions are heavily influenced by culture practice and rule The pursuit of business relationships within nation states can be subject to differences in the generation of norms and the processing of disputes but these conflicts are magnified many times over in cross border transactions where nation state control and support is weak or absent This book seeks different explanations of the ways in which business people and their legal advisers try to minimise the effect of these magnified difficulties At the outset the editors suggest four sources through which the international business community might be considered to have supplemented nation state conflict prevention and dispute resolution institutions an international legal order the development of a private normative order based on common business practices denominated the *lex mercatoria* through the efforts and work product of internationalised law firms and by means of extensive thick personal relationships often referred to by their Chinese term *guanxi* Since most explanations are dominated by North American and European legal scholarship and practice a second concern of this book is to open up the discussion to competing explanatory frameworks Specifically it develops the notion that global legal convergence may not be the

immediate inevitable result of increased global economic interaction Rather less formal mechanisms for achieving normative understanding and predictability in business dealings may also flourish

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 _ Sally Ramage The Criminal Lawyer Containing newly updated versions of existing entries and adding several important new entries this second edition of the Elgar Encyclopedia of Comparative Law takes stock of present day comparative law scholarship Written by leading authorities in their respective fields the contributions in this accessible book cover and combine not only questions regarding the methodology of comparative law but also specific areas of law such as administrative law and criminal law and specific topics such as accident compensation and consideration In addition the Encyclopedia contains reports on a selected set of countries legal systems and as a whole presents an overview of the current state of affairs Providing its readers with a unique point of reference as well as stimulus for further research this volume is an indispensable tool for anyone interested in comparative law especially academics students and practitioners

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