

LEGAL ASPECTS OF CONTRACTS AND THIRD PARTIES

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LEGAL ASPECTS OF CONTRACTS AND THIRD PARTIES

On Third-Party Rights, Transfer of Rights,
Agency and Contracts

Edited by
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Legal Aspects of Contracts and Third Parties. On Third-Party Rights, Transfer of Rights, Agency and Contracts

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GENERAL EDITORS' PREFACE

It is a special pleasure to welcome the 23rd book in the series *The Common Core of European Private Law*. This book is edited by two scholars, who together represent two different legal cultures: the Dutch and the Scottish. Their works are already renowned and appreciated well beyond the 'Common Core' circles.

The Common Core project was launched in 1993 at the University of Trento under the auspices of the late Professor Rudolf B. Schlesinger. The methodology used in the Common Core project, then novel, is now a classic. By making use of case studies, it goes beyond mere description to detailed inquiry into how most European Union legal systems resolve specific legal questions in practice, and to thorough comparisons between those systems. It is our hope that these volumes will provide scholars with a valuable tool for research in comparative law and in their own national legal systems. The collection of materials that the Common Core project is offering to the scholarly community is already quite extensive and will become even more so as more volumes are published. The availability of materials attempting a genuine analysis of how things seem to be is, in our opinion, a prerequisite for an intelligent and critical discussion on how they should be. Perhaps in the future European private law will be authoritatively restated or even codified. As of today, the Common Core project is the longest-running scholarly enterprise in the field. The analytical work carried out by the more than 300 scholars that have so far joined us in the Common Core project is also a precious asset of knowledge and legitimisation for any such a normative enterprise.

We must thank the editors and contributors for their work. With a sense of deep gratitude, we also wish to recall our late Honorary Editors, Professors Rudolf B. Schlesinger and Rodolfo Sacco.

No scholarly project can survive without committed sponsors. The International University College of Turin allows us to organise the General Meetings together with the Centro Studi di Diritto Comparato of Trieste. The European Commission has partially sponsored some of our past General Meetings, having included them in their High Level Conferences Program. The Italian Ministry of Scientific Research, the University of Turin, the University of Trieste, the University of Salento, the University of Gothenburg, the University of Stockholm, the University of Groningen, the Fromm Chair in International and Comparative Law at the University of California and the Hastings College of the Law, the University of Trento, the Collegio Carlo Alberto and the Consiglio

Nazionale del Notariato all contributed to, or are still contributing to, the funding of this Project. Last but not least, we must thank all those involved in our ongoing Common Core projects in contract law, property, tort and other areas, whose results will be the subject of future published volumes.

Our website home page can be found at www.common-core.org. There you can follow our progress in mapping the common core of European private law.

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We hope that this book provides a useful guide to the area for those interested in comparative law, whether students, academics or practitioners.

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LIST OF ABBREVIATIONS

AB	Allmänna bestämmelser för entreprenader (Swedish General Provisions for Construction Contracts)
AnfG	Anfechtungsgesetz
Arr.Cass.	Arresten van het Hof van Cassatie
AT	Allgemeiner Teil
Bankruptcy Act 2003	Ustawa z dnia 28 lutego 2003 r. – Prawo upadłościowe (Polish Act of 28 February 2003 – Law of Bankruptcy)
BCC	Belgian Civil Code
BGB	Bürgerliches Gesetzbuch (German Civil Code)
BGH	Bundesgerichtshof (German Federal Court)
BGHZ	Entscheidungen des Bundesgerichtshofes in Zivilsachen (Collection of Judgments of the Federal Court in Civil Matters)
BSC	Bulgarian Supreme Court
BSCC	Bulgarian Supreme Court of Cassation
CA	Bulgarian Commerce Act
Cass.	Belgian Court of Cassation (Cour de cassation/ Hof van cassatie)
c.c.	Italian Civil Code
CC	Czech Civil Code, Act No. 89/2012 Coll., as amended
CC 1964	Czech Civil Code, Act No. 40/1964 Coll., as amended
cf.	confer/conferatur (compare)
Com.	Belgian Tribunal of Commerce (tribunal de commerce/ rechtbank van koophandel)
CommC	Czech Commercial Code, Act No. 513/1991 Coll., as amended
CRTPA	Contract (Rights of Third Parties) Act 1999

DCC	Dutch Civil Code
Draft Statute Tort Law	Draft Statute of 8 March 2023 on introduction of Book 6 ‘Tort Law’, <i>Parl.St.</i> 2022–23, 3213/1
e.g.	exempli gratia (for example)
Explanatory Memorandum	Explanatory Memorandum to the Draft Statute of 24 February 2021 on introduction of Book 5 ‘Obligations’, <i>Parl.St.</i> 2020–21, 1806/1
Explanatory Memorandum Tort Law	Explanatory Memorandum to the Draft Statute of 8 March 2023 on introduction of Book 6 ‘Tort Law’, <i>Parl.St.</i> 2022–23, 3213/1
ff.	and the following
FCC	French Civil Code
GACC	General Assembly of Civil College
HD	Högsta domstolen (Swedish Supreme Court)
HGB	Handelsgesetzbuch (German Commercial Code)
IC	Bulgarian Insurance Code
i.e.	id est (that is)
InsO	Insolvenzordnung (German Insolvency Code)
JLMB	Revue de jurisprudence de Liège, Mons et Bruxelles
Judicial Code	Belgian Judicial Code of 10 October 1967 (Gerechtigeliijk Wetboek/Code Judiciaire)
JZ	Juristenzeitung
KG	Kammergericht
KPP	Kwartalnik Prawa Prywatnego
LMK	Lindenmaier-Möhring – Kommentierte BGH-Rechtsprechung
LMR Act	Ustawa z dnia 6 lipca 1982 r. o księgach wieczystych i hipotece (Polish Act of 6 July 1982 on Land and Mortgage Register and on Mortgage)
LOC	Bulgarian Law on Obligations and Contracts
LPA	Law of Property Act 1925
LRA	Land Registration Act 2002
LTCA	Landlord and Tenant (Covenants) Act 1995

NJA	Nytt juridiskt arkiv (New Legal Archive) ¹
NJA II	Nytt juridiskt arkiv avdelning II (New Legal Archive Section II) ²
NJW	Neue Juristische Wochenschrift
NJW-RR	NJW Rechtsprechungs-Report Zivilrecht
NJW	Nieuw Juridisch Weekblad
NP	Nowe Prawo
old BCC	Old Belgian Civil Code
OLG	Oberlandesgericht (German Court of Appeal)
Pas.	Pasicrisie belge
PCC	Polish Civil Code, ustawa z dnia 23 kwietnia 1964 r. – Kodeks cywilny (Act of 23 April 1964 – Civil Code)
RABG	Rechtspraak Antwerpen Brussel Gent
RCJB	Revue critique de jurisprudence belge
RGAR	Revue générale des assurances et des responsabilités
RGDC	Revue générale de droit civil belge
RGZ	Entscheidungen des Reichsgerichts in Zivilsachen (Collection of Judgments of the Imperial Court in Civil Matters)
Ruch PES	Ruch Prawniczy Ekonomiczny i Socjologiczny
RW	Rechtskundig Weekblad
SA	Sąd Apelacyjny (Polish Court of Appeal)
SCommC	Slovak Commercial Code
SCC	Slovak Civil Code
SG	State Gazette
SN	Sąd Najwyższy (Polish Supreme Court)
SOGA	Sale of Goods Act 1979

¹ A semi-official collection of and the standard source for Swedish Supreme Court case law.

² A semi-official collection of mainly preparatory works for different statutory acts. In Swedish law preparatory works are considered a source of law.

SOU	Statens offentliga utredningar (Official investigations of the State) ³
SPE	Studia Prawno-Ekonomiczne
SRC	Sofia Regional Court
SSC	Slovak Supreme Court
Staudinger	J. von Staudingers Kommentar zum Bürgerlichen Gesetzbuch (commentary on the Civil Code)
T.App.	Tijdschrift voor appartements- en immorecht
TBH	Tijdschrift Belgisch Handelsrecht
TBO	Tijdschrift voor bouwrecht en onroerend goed
TPP	Transformacje Prawa Prywatnego
Trib.	Tribunal of first instance (tribunal de première instance/ rechtbank van eerste aanleg)
VersR	Versicherungsrecht
vol.	volume
VVG	Versicherungsvertragsgesetz (German Law on Insurance Contracts)
WER	Wetboek Economisch Recht/Code de droit économique (Belgian Code of Economic Law of 28 February 2013)
WM	Wertpapier-Mitteilungen: Zeitschrift für Wirtschafts- und Bankrecht
ZIP	Zeitschrift für Wirtschaftsrecht
ZMR	Zeitschrift für Miet- und Raumrecht
ZPO	Zivilprozessordnung (German Code of Civil Procedure)
ZVG	Zwangsversteigerungsgesetz (German Law of Forced Execution into Land)

³ A collection of official investigations, and most importantly preparatory works for different Swedish statutory acts.

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