



VOLUME 11

NEW

## Fundamental Rights in European Contract Law

*A Comparison of the Impact of Fundamental Rights on Contractual Relationships in Germany, The Netherlands, Italy and England*

by *Chantal Mak*

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.

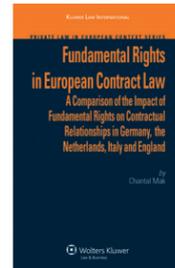
Taking its cue from many initiatives toward the development of a more coherent, even harmonised, European contract law, this book is the first major study to examine the following essential questions with detailed reference to actual judicial developments:

- 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.

For its reframing of old questions and its insightful delimitations of new ones, this book offers a fresh and deeply informed new perspective on this important area of developing law. The discussion, moreover, has received an additional impulse from the debate leading up to the recent agreement on a Reform Treaty regarding the institutional settlement of the Union, which will give a legally binding status to the Nice Charter of Fundamental Rights. For these reasons and others, the book will be of great value to all interested parties in government, business, and legal practice.

January 2008, 400 pp., hardbound  
ISBN: 9789041126719  
Price: EUR 125.00/ USD 165.00/ GBP 85.00



VOLUME 10

NEW

## Harmonisation of Securities Law *Custody and Transfer of Securities in European Private Law*

by *Matthias Haentjens*

Is harmonisation of European securities law a good idea? According to this original analysis, the answer is a qualified yes. If it can be done without undermining the various systems that now govern the custody and transfer of securities in national European jurisdictions, harmonisation will be well received. The author first shows that such an acceptable outcome is indeed possible, and then offers a detailed analysis of the form it might take. Along the way he compares the current infrastructure of securities law in three European countries (Belgium, France, and the Netherlands) with generally accepted standards of modern securities custody and transfer practice, as well as with the harmonisation inherent in the United States Universal Commercial Code.

Among the elements of securities law discussed in this comparative context are the following:

- eligible categories of securities;
- accountholder-intermediary relationship;
- intermediary insolvency;
- shortfalls;
- moment of transfer;
- enforcement of securities rights; and
- conflict of laws.

As an in-depth contribution to this important aspect of the ongoing debate about the harmonisation of European private law, and as an assessment of the possible impact of harmonisation measures by means of a coherence account, this book will be especially valuable to European policymakers and securities regulatory officials. It will also interest practitioners and academics in such diverse fields as commercial law, European law, insolvency law, contract law, and property law.

### Contents:

Preface. Abbreviations.

#### Part I. Introductory Chapters.

1. Introduction.
2. System and Coherence.
3. Immobilisation, Dematerialisation and the Law.
4. Practice and Risks of the Post-Trade Process.

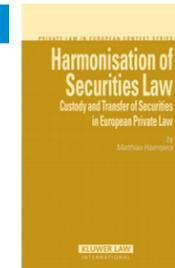
#### Part II. Securities Laws of Selected Jurisdictions.

5. Belgium.
6. France.
7. The Netherlands.
8. The United States of America.

#### Part III. Harmonisation of Securities Law.

9. Harmonisation Initiatives.
10. National Securities Laws Compared and Evaluated.
11. Harmonisation and Coherence of National Laws.
12. Towards the European Harmonisation of Securities Law. Summary and Recommendations. Summaries in Dutch and French. Bibliography. Table of Cases. Table of Legislation. Index

October 2007, 324 pp., hardbound  
ISBN: 9789041126399  
Price: EUR 100.00/ USD 132.00/ GBP 68.00



VOLUME 9

NEW

## Private Law and the Many Cultures of Europe

edited by *Thomas Wilhelmsson, Elina Paunio & Annika Pohjolainen*

The continuing headlong increase in cross-border legal issues of all kinds raises a host of new issues for private law even as it reconfigures the old issues, both in theory and in practice. In an effort to identify trends and consolidate what we've learned in this important area, outstanding legal scholars from nine European countries (plus Australia) convened at the University of Helsinki in August 2006. This volume reproduces, in definitive English texts, twenty-two of the papers presented at that conference.

The issues addressed cluster around four basic questions:

- To what extent does the multiculturalism of the European Union hamper the development of common private law rules?
- Which rules that are specific for a particular state/region/culture need to be preserved?
- To what extent can localism be met with variations in the application of common provisions?
- What problems for the common rules are posed by the fact that they are to be implemented in a multilingual society?

While overarching concerns such as social justice, harmonization, culture, and diversity pervade all the essays, such crucial practical considerations as legal translation and regulation of advertising are not neglected.

### Contents:

- Part I. Introduction.  
Part II. Legal Culture and Societal Culture.  
Part III. Private Law Post Socialism.  
Part IV. Cultural Diversity and Harmonization.  
Part V. Cultural Diversity and Social Justice.  
Part VI. Business Contracts.  
Part VII. Consumer Protection.  
Part VIII. Credit.  
Part IX. Harmonization and Language.  
Part X. Local Multiculturalism.

August 2007, 350pp., hardbound  
ISBN: 9789041125934  
Price: EUR 125.00/ USD 165.00/ GBP 85.00

