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Good Faith in European Contract Law



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Good Faith In European Contract Law

**Bénédicte Fauvarque-Cosson, Denis
Mazeaud**



Good Faith In European Contract Law:

Good Faith in European Contract Law Reinhard Zimmermann, Simon Whittaker, 2000-06-08 For some Western European legal systems the principle of good faith has proved central to the development of their law of contracts while in others it has been marginalized or even rejected This book starts by surveying the use or neglect of good faith in these legal systems and explaining its historical origins The central part of the book takes thirty situations which would in some legal systems attract the application of good faith analyses them according to fifteen national legal systems and assesses the practical significance of both the principle of good faith and its relationship to other contractual and non contractual doctrines and forms of regulation in each situation The book concludes by explaining how European lawyers whether from a civil or common law background may need to come to terms with the principle of good faith This was the first completed project of The Common Core of European Private Law launched at the University of Trento

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

Good Faith in Contract and Property Law A. D. M. Forte, 1999 Papers from a symposium held October 1998 at Aberdeen University

Uniform Rules for European Contract Law? Francisco de Elizalde, 2018-06-28 Over the last 30 years the evolution of *acquis communautaire* in consumer law and harmonising soft law proposals have utterly transformed the landscape of European contract law The initial enthusiasm and approval for the EU programme has waned and post Brexit it currently faces increasing criticism over its effectiveness In this collection leading academics assess the project and ask if such judgements are fair and suggest how harmonisation in the field might be better achieved This book looks at the uniform rules in the context of the internal market national legislators and courts bridging the gap between common and civil law and finally their influence on non member states Critical and rigorous it provides a timely and unflinching critique of one of the

most important fields of harmonisation in the European Union Good Faith in Contract Law Christina Perry, 2024-10-03
Combining detailed legal analysis with commercial guidance this book examines the law relating to good faith in commercial contracts and the practical procedural and legal issues that arise in respect of this often contentious area Christina Perry evaluates express and implied good faith obligations in common and civil law contracts as well as in commercial employment insurance partnership and agency agreements Commentaries on European Contract Laws Nils Jansen, Reinhard Zimmermann, 2018-07-13
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 Good Faith in Contractual Performance in Australia Nurhidayah Abdullah, 2020-10-01
This book gives a detailed account of the current state of the law concerning good faith in contractual performance in Australia through an empirical study on its reception and development across the various Australian jurisdictions In Australia good faith received wide attention after Priestly J introduced in his obiter comments in *Renard Construction ME v Minister for Works* 1992 26 NSWLR 234 This book focuses on the attitude of the judges to good faith the definition of good faith and the possibility of legislating a good faith obligation in Australian contract law This book also discusses the issues surrounding its development its meaning and acceptance at the international level The empirical legal research adopted in this book will offer a significant contribution in understanding the concept of good faith in Australia from the empirical perspective **General Clauses and Standards in European Contract Law** Stefan Grundmann, Denis Mazeaud, 2006-01-01
General clauses or standards Generalklauseln clauses generales are legal rules which are not precisely formulated terms and concepts which in fact do not

even have a clear core They are often applied in varying degrees in various legal systems to a rather wide range of contract cases when certain issues arise issues such as abuse of rights unfairness good faith fairness of duty or loyalty or honesty duty of care and other such contract terms not lending themselves readily to clear or permanent definition Here for the first time is a systematic discussion of this kind of rule in the evolving and dynamic context of European contract law A collection of twelve insightful essays by leading European law authorities the book is based on a conference organized jointly by the Society of European Contract Law SECOLA and l association Henri Capitant held in the grande salle of the French Supreme Court in Paris in 2005 The subject is approached along three distinct but interconnected avenues comparative contract law in which the different models to be found among Member States particularly the Germanic French and English common law systems are explored with an eye to differences and common ground EC contract law in which the general clause approach has tended to focus on labour law and consumer law and in which the European Court of Justice more and more assumes the final say andthe European codification dimension in which a potential instrument on the European level would compete with national laws and develop closely with them The authors demonstrate that a focus on general clauses in contract law embracing as it does a wide range of types of contracts helps enormously with the necessary integration of legal scholarship and economic approaches and of legal science and legal practice in the field Numerous analytic references to relevant cases and EC Directives give a practical impetus to the far reaching but immediately applicable theory presented in this important book As European contract law continues to develop rapidly this seminal contribution is sure to increase in value and usefulness

European Contract Law Bénédicte Fauvarque-Cosson, Denis Mazeaud, 2009-04-27 The Association Henri Capitant des Amis de la Culture Juridique Fran aise and the Soci t de l gislation compar e joined the academic network on European Contract Law in 2005 to work on the elaboration of a common terminology and on guiding principles as well as to propose a revised version of the Principles of European Contract Law PECL The results of this work were sent to the European Commission and have already been published in French The English translation is now being published by sellier elp This work could contribute to the wider European project The part on the guiding principles could be a component of the CFR in the form of black letter model rules or recitals The part on terminology is in itself useful for the elaboration of the final various linguistic versions of the CFR It finds its place within the materials which will accompany the model rules Last but by no means least the revised version of the PECL should be considered by the European institutions as an alternative set of model rules on contract law

Good Faith in International Investment Arbitration Emily Sipiorski, 2019 Written by a leading legal researcher this book offers a comprehensive study of the principle a frequently invoked but rarely analysed aspect of investment arbitration It is a thorough and expansive study that considers the application of good faith by arbitral tribunals and parties in international investment disputes encompassing both procedural and substantive aspects of good faith Expertly negotiating a complex principle this book diligently follows the arbitral process from jurisdiction through

merits and to cost decisions identifying the various applications of good faith in investment disputes The author offers detailed analyses of the role of good faith in defining nationality and investor as well as in pre dispute admissibility requirements The study then delves into the ways the principle guides parties arguments and informs tribunals decisions regarding evidence substantive protections and costs It further addresses the role of good faith in the behaviour of arbitrators and other actors This is a guide for anyone wishing to understand this important principle that has accompanied the developing system of international investment law

The Politics of the Draft Common Frame of Reference

Alessandro Somma,2009-01-01 This collection of essays reflects both the diversity of the group s work and the common thread that runs through it The core claim here is that the DCFR despite the Commission s characterization of its proposals as purely technical cannot escape politics The intent is to critically identify and evaluate the model of social justice underlying the DCFR

Fairness in Consumer Contracts Chris Willett,2016-12-05 This book focuses on unfair contract terms in consumer contracts in particular the existing legislation and the proposals by the Law Commissions for a new unified regime In this context it considers in particular what we mean by fairness both procedurally and in substance the tools used the European dimension the move from general principles from the more piecemeal approach typical in UK legal tradition and the further move in this direction as a result of the Unfair Commercial Practices Directive

Legal Pluralism in European Contract Law Vanessa Mak,2020 The aim of this series is to publish important and original research on EU law The focus is on scholarly monographs with a particular emphasis on those which are interdisciplinary in nature Edited collections of essays will also be included where they are appropriate The series is wide in scope and aims to cover studies of particular areas of substantive and of institutional law historical works theoretical studies and analyses of current debates as well as questions of perennial interest such as the relationship between national and EU law and the novel forms of governance emerging in and beyond Europe The fact that many of the works are interdisciplinary will make the series of interest to all those concerned with the governance and operation of the EU Book jacket

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 **Contract Law** Neil Andrews, 2015-05-14 Significantly streamlined and updated this second edition provides a clear introduction to all topics in the contract law curriculum **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 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 Good Faith in Transnational Law Frédéric Gilles Sourgens, 2022-09-12 Transnational law currently appears fragmented and captured by self interested corporate actors Good faith is at the heart of this fragmentation To defend transnational law thus requires an account of good faith Good Faith in Transnational Law explains and recasts fragmentation and capture as something valuable and casts good faith as an obligation of other regarding communicative conduct Frédéric Gilles Sourgens argues that the fragmentation we experience is a virtue for communication across vastly different commercial economic social cultural and linguistic contexts to remain legally meaningful we must translate our different expectations into a shared context bound idiom He argues that law harnesses stress of such translations through stress fields that reintegrate the different experiences in a shared transnational discourse *The Constitutional Foundations of European Contract Law* Kathleen Gutman, 2014-03 Examining the

constitutional foundations of European contract law this book provides a thorough assessment of the extent of the European Union's competence to regulate contracts and offers a comprehensive comparative study of the contract law framework in the United States

Good Faith in Contract Roger Brownsword, Norma J. Hird, Geraint G. Howells, 1999

In many legal systems around the world whether civilian or common law the doctrine of good faith is recognised as one of the general principles of contract law By contrast English law has taken a different approach relying on a number of specific doctrines aimed at securing fair dealing but eschewing any general principle of good faith in contract In the light of recent good faith provisions such as those found in the EC Directives on Commercial Agents and on Unfair Terms in Consumer Contracts as well as in the Lando Commission's Principles of European Contract Law and the UNIDROIT Principles of International Commercial Contracts it is open to debate whether the English law of contract can or indeed should maintain its traditional approach The purpose of the essays in this collection is to inform such a debate in two principal ways first by drawing out the competing conceptions and concomitant credentials of the idea of good faith in contract and secondly by exploring the role of good faith in different contexts for example in the context of both consumer and commercial contracting but also in the context of specific fields of contract law such as insurance and financial services particular patterns of doctrinal response to bad faith and unfair dealing and the various traditions of legal reasoning found around the world The essays represent a significant international engagement with a question that is by no means of interest only to English lawyers For the perspectives presented by the European Nordic Israeli North American South African and Australian contributors to this book serve to illuminate our understanding of the idea of good faith whether our concern is with our own local legal system or beyond that with the elaboration of principles of contract law for regional or global application

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Good Faith In European Contract Law Introduction

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