



AN IMPRINT OF THE INTERNATIONAL AND COMPARATIVE LAW
SERIES OF THE OXFORD JOURNAL OF LEGAL STUDIES

The Enforceability of Promises in European Contract Law



EDITED BY
JAMES GORDLEY

Enforceability Of Promises In European Contract Law

Martijn Hesselink



Enforceability Of Promises In European Contract Law:

The Enforceability of Promises in European Contract Law James Gordley, 2001-07-12 Civil law and common law systems are held to enforce promises differently civil law in principle will enforce any promise while common law will enforce only those with consideration In that respect modern civil law supposedly differs from the Roman law from which it descended where a promise was enforced depending on the type of contract the parties had made This 2001 volume is concerned with the extent to which these characterizations are true and how these and other differences affect the enforceability of promises Beginning with a concise history of these distinctions the volume then considers how twelve European legal systems would deal with fifteen concrete situations Finally a comparative section considers why legal systems enforce certain promises and not others and what promises should be enforced This is the second completed project of The Common Core of European Private Law launched at the University of Trento

Unexpected Circumstances in European Contract Law Ewoud Hondius, Christoph Grigoleit, 2011-03-03 The recent financial crisis has questioned whether existing contracts may be adapted terminated or renegotiated as a result of unexpected circumstances The question is not a new one In medieval times the notion of *clausula rebus sic stantibus* was developed to cope with such situations and Germany introduced the theory of *Wegfall der Geschäftsgrundlage* In England the Coronation cases provided one possible answer This comparative study explores the possibility of classifying jurisdictions as open or closed in this regard

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

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 communie* 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.

Promises and Contract Law Martin Hogg, 2011-07-14

Promises and Contract Law is the first modern work to explore the significance of promise to contract law from a comparative legal perspective. Part I explores the component elements of promise its role in Greek thought and Roman law the importance of the moral duty to keep promises and the development of promissory ideas in medieval legal scholarship. Part II considers the modern contract law of a number of legal systems from a promissory perspective. The focus is on the law of England Germany and three mixed legal systems Scotland South Africa and Louisiana though other legal systems are also mentioned. Major topics subjected to a promissory analysis include formation of contract third party rights contractual remedies and the renunciation of contractual rights. Part III analyses the future role which promise might play in contract law especially within a harmonised European contract law.

Precontractual Liability in European Private Law John Cartwright, Martijn Hesselink, 2008

This volume outlines European perspectives on the liability which may follow a break off of precontractual negotiations.

The Europeanisation of Contract Law Christian Twigg-Flesner, 2013-04-12

Critical yet accessible this book provides an overview of the current debates about the Europeanization of contract law. Charting the extent to which English contract law has been subject to this activity it is the ideal volume for readers unfamiliar with the subject who wish to understand the main issues quickly. It examines a range of key developments including a string of directives adopted by the European Union that touch on various aspects of consumer law recent plans for a European Common Frame of Reference on European Contract Law. Bringing together advanced legal scholarship critically examining key developments in the field and considering the arguments for and against greater convergence in the area of contract law this is an excellent read for postgraduate students studying contract and or European law.

Mistake, Fraud and Duties

to Inform in European Contract Law Ruth Sefton-Green, 2005-02-10 This 2005 examination of twelve case studies about mistake fraud and duties to inform reveals significant differences about how contract law works in thirteen European legal systems and despite the fact that the solutions proposed are often similar what divergent values underlie the legal rules Whereas some jurisdictions recognise increasing duties to inform in numerous contracts so that the destiny of mistake and fraud classical defects of consent may appear to be uncertain other jurisdictions continue to refuse such duties as a general rule or fail to recognise the need to protect one of the parties where there is an imbalance in bargaining power or information Avoiding preconceptions as to where and why these differences exist this book first examines the historical origins and development of defects of consent then considers the issues from a comparative and critical standpoint **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 **Research Handbook in Data Science and Law**

Vanessa Mak, Eric Tjong Tjin Tai, Anna Berlee, 2018-12-28 The use of data in society has seen an exponential growth in recent years Data science the field of research concerned with understanding and analyzing data aims to find ways to operationalize data so that it can be beneficially used in society for example in health applications urban governance or smart household devices The legal questions that accompany the rise of new data driven technologies however are underexplored This book is the first volume that seeks to map the legal implications of the emergence of data science It discusses the possibilities and limitations imposed by the current legal framework considers whether regulation is needed to respond to problems raised by data science and which ethical problems occur in relation to the use of data It also considers the emergence of Data Science and Law as a new legal discipline **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

Contract Law John Cartwright, 2016-06-02 This book gives an introduction to the English law of contract The third edition has been fully updated to cover recent developments in case law and recent statutes such as the Consumer Rights Act 2015 However this new edition retains the primary focus of the earlier editions it is designed to introduce the lawyer trained in a civil law jurisdiction to the method of reasoning in the common law and in particular to the English law of contract It is written for the lawyer whether student or practitioner from another jurisdiction who already has an understanding of a different law of contract but who wishes to discover the way in which an English lawyer views a contract However it is also useful for the English law student setting English contract law generally in the context of other European and international approaches the book forms an introductory text not only demonstrating how English contract law works but also giving a glimpse of different ways of thinking about some of the fundamental rules of contract law from a civil law perspective After a general introduction to the common law system how a common lawyer reasons and finds the law the book explains the principles of the law of contract in English law covering all the aspects of a contract from its formation to the remedies available for breach whilst directing attention in particular to those areas where the approach of English law is in marked contrast to that taken in many civil law systems

Paradigms in Modern European Comparative Law Balázs Fekete, 2021-04-22 This book uses the philosophy of Thomas Kuhn to provide a new vision of the development of European comparative law that will challenge and inspire scholars in the field With the empathic use of some ideas from Kuhn's theories on the history of science paradigm paradigm shift puzzle solving research and incommensurability the book rethinks the modern history of European comparative law from the late 19th century to the modern day It argues that three major paradigms determine modern comparative law historical and comparative jurisprudence droit comparé and post World War II comparative law It concludes that contemporary methodological trends are not signs of a paradigm shift toward a postmodern and culturalist understanding of comparative law but that the new approach spreads the idea of methodological plurality

Comparative Contract Law Pier Giuseppe Monateri, 2017-04-28 This comprehensive Handbook offers a thoughtful survey of contract theories issues and cases in order to reassess the field's present vision of contract law It engages a critical search for the fault lines which cross traditions of

thought and globalized landscapes Comparative Contract Law is built around four main groups of insights including the genealogies of contractual theoretical thinking the contentious relationship between private governance and normative regulations the competing styles used to stage contract law and the concurring opinions expressed within the domain of other disciplines such as literature and political theory The chapters in the book tease out the tensions between a global context and local frameworks as well as the movable thresholds between canonical expressions and heterodox constructions

Foundations of American Contract Law James Gordley, 2023 Authored by a leading scholar Foundations of American Contract Law systematically reconsiders the principal doctrines of contract law The book's theoretical approach reconciles concerns about fairness party autonomy and the purposes that a contract serves for society and the parties themselves

The New European Private Law: Vol. 3: Essays on the Future of Private Law in Europe Martijn Hesselink, 2002-10-16 In The New European Private Law Martijn W Hesselink presents a revised and supplemented collection of essays written over the last five years on European private law He argues that the creation of a common private law in Europe is not merely a matter of rediscovering the old *ius commune* or of neutrally establishing the present common core which may be codified in a European Civil Code Rather it is a matter of making choices some of which may be highly controversial In this book he discusses some of the most important choices which will have to be made with regard to culture principles politics models rights concepts and structure in the new European private law

Edinburgh Student Law Review - Issue 2, *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

Time Limited Interests in Land Cornelius Van Der Merwe, Alain-Laurent Verbeke, 2012-06-28 A comprehensive comparative treatment of six instances of time limited interests in land as encountered in fourteen European jurisdictions The survey explores the commercial or social origins of each legal

institution concerned and highlights their enforceability against third parties their content and their role in land development The commercial purpose of residential and agricultural leases is contrasted with the social aim of personal servitudes and its common law equivalent life interest to provide sustenance for life to mostly family members making the latter an important estate planning device Whereas the ingrained principles of leases and personal servitudes restrain the full exploitation of land it is indicated that public authorities and private capital could combine to turn the old fashioned time limited institutions of hereditary building lease superficies and hereditary land lease emphyteusis into pivotal devices in alleviating the acute shortage of social housing and in promoting the fullest exploitation of pristine agricultural land **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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