

Subject Index

A

Alternative Dispute Resolution (ADR)

Directive, 81–101

vs. consumers' rational apathy and
assesses, 85–91
chances of winning the case, 88–89
enforcement of an ADR award,
89–91

uncertainty as to costs, 87–88

effective, fair, independent and trans-
parent, 83

fairness, 94–101

consumers' awareness, 95–96

consumers' perception, expertise
and impartiality of ADR entities,
97–100

development, 100–101

trust, 96–97

vs. free-riding behaviour, 91–94

Alternative dispute resolution (ADR),

EU, 7–31

access to justice, 15–17, 28–30

civil justice system, 25–28

consumer ADR Directive and ODR

Regulation, 22–25

consumer dispute resolution, 19–21

dispute resolution lawyers, 18

fragmented reality of EU civil justice,
11–15

Area of Freedom, Security and

Justice (AFSJ), 11

Charter of Fundamental Rights,

Art. 47, 10

Directive and ODR Regulation, 12,
13

ECJ, 10

justice scoreboards, 14

procedural rules, 10, 11

TFEU, Art. 81, 11

Treaty on European Union (TEU),

Art. 19(1), 10

vertical harmonization, 13

judicial cooperation, 18

legislation, 21–22

Mediation Directive, 25

movement, 17

Online Dispute Resolution (ODR)

Regulation, 9

regulatory tools and measures, 19

Alternative litigation funding (ALF),
253–270

civil and commercial judicial admin-
istration systems, 255

claim assignment, 260–262

economic globalization and financial
crises, 255

and Italian Law, 266–270

claim assignment, 268–269

lawyers' funding, 269–270

legal expenses insurance (LEI),
269

third party litigation funding
(TPLF), 267–268

lawyers' funding, 264–266

legal expenses insurance (LEI),
262–264

Middle-Age England, 256–257

profit, 254

social prestige and economic power,
256

third party litigation funding (TPLF),
257–260

Attribution of Acts, EU and National

Private Law, 645–671

actio de dolo, 670

assessment, entity's 'own act,'

651–669

agency, 660, 661

enterprise liability, 661–662

expert official statement, 655–657

facts, 652–653

judgment of the court of justice,
653–655

liability of parent company,
665–669

Public International Law, 657–659

- restructures, essence of person, 664-665
 - substantive justice, 662-664
 - UN Resolution, 659-660, 662
 - damages, 647
 - Dutch Civil Code, 670
 - entity to natural person, Roman Law, 648-649
 - EU and Private Law, 669-671
 - features, 648
 - legal relationships, entities and natural persons, 669
 - liability, 647
 - modern law, 649-651
 - Francovich* doctrine, 651
 - law of obligations, 649
 - private law problems, 649
 - responsibility, 650-651
 - state liability, 651
 - TFEU, Art. 101, 649-650
 - Roman Law, 648-649
 - UNIDROIT, 670
 - unlawful act, 646
- B**
- Belgian Civil Code, 601-617
 - challenges, 603-607
 - amendments, 603
 - European directives, 606-607
 - federal and the regional levels, legislative competences, 604
 - national legislatures and courts, 603
 - Private Law, 603-604
 - process of 'de-codification', 605-606
 - risk, 603
 - stratification and (internal) fragmentation, 604-605
 - transformations, 607
 - Cour de cassation*, 610-611
 - influence of European Law, 603
 - legislative responses, 607-610
 - integral revision of the code, 608
 - limitations, 610
 - partial revisions, 609
 - revision of specific parts of the code, 608
 - transposition of EU law, 609-610
 - revision, 602-603
 - traditional approach, Private Law, 612-617
 - judiciary, 614-617
 - legislative opportunity, 612-614
 - twenty-first century, 603, 617
 - Bipolar relation *vs.* quasi-corporate status, trust, 995-1110
 - anatomy of law, 995-996
 - confirmation/refutation of the concept, 1008-1009
 - German experience, 998-1006
 - absence of express legal provisions in the German Civil Code (BGB), 998-999
 - bipolar 'trust'-concepts, 999-1000
 - extension to third persons as beneficiaries, 1000
 - interim results, 1005-1006
 - legislation and Private Law in Europe, 1009
 - obligations *vs.* organization, 996
 - ownership *vs.* interest, 996
 - Quebec and Czech Republic, 1006-1008
 - Czech rules, 1007-1008
 - legislation and the impact of the concept, 1006
 - Quebec rules, 1007
 - trust as an organization, 1000-1005
 - Innen-Kommanditgesellschaft*, 1002
 - Nicht-rechtsfähige Stiftung*, 1000-1002
 - registration issue, 1005
 - Solving a Tricky Puzzle, 1003-1005
 - 'trust' *vs.* 'treuhand'/'fiducie', 996-998
- C**
- Charter of Fundamental Rights and Private Law, 425-456

Alemo-Herron case, 427
 Art. 16, CFREU, 426, 427, 430
 broad diversity, 437
 CJEU, 455
 communitarian, 434–436
 constitutional right claim, 455
Constitutional Values, 444–445
 consumer protection, 428–429
 consumer protection, Art. 38, 430
 deference to interpretations, 448–450
 differences, 437
 direct or indirect horizontal effect, 443–444
 equilibiaity, 454
 freedom of contract, 427
 free enterprise, 446–447
 good of consumerism, 445–446
 horizontal effects, 454
 human dignity, 429
 impacts, contractual relationships, 429–430
 implications, 429
 interpretations, 447
 liberals or liberal-egalitarians, 430–431
 libertarianism, 431–433
 logical or linguistic analysis, 429
 normative analysis, 429
 political conception and horizontal effects, 437–443
 evaluations, 437–438
 fact of reasonable pluralism, 438–440
 indeterminacy, 440–442
 political principles of justice, 442–443
 private limited company, 426
 republicans, 436–437
 rights, freedoms and principles, 450–454
 business, 453
 consumer protection, Art. 38, 454
 ECHR, 450, 451
 human dignity, Art. 1, 451
 humanity, 450
 legal persons, Art. 16, 453
 official Explanation, 452
 scope and interpretation (Art. 52), 451–452
 The Universal Declaration of Human Rights (1948), 450–451
 right to conduct a business, 428
 utilitarian, 433–434
 Chinese Contract Law (CCL), 897–901
 Claims management services, 143–159
 advantages and disadvantages, 149–153
 ADR, 151–153
 group action, 153
 litigation, 149–150
 representative action, 150–151
 air passenger rights, 153–156
 business model and its legal construction, 145–147
 clarification of law, 157–158
FairPlane claims, 144
 Financial Services Compensation Scheme (FSCS), 159
flightright business model, 145
 legal services 2.0, 156–157
 service providers, 147–149
 attractiveness for customers, 148
 reasons for success, 149
 Consumer access to justice, 33–60
 ADR, 37–48
 access element, 41–42
 Directive, 35, 36, 39
 EU measure, 34
 justice element, 42–48
 Member State, 36, 37
 necessary option, 37–39
 binding decisions in enhancing ‘justice’, 48
 Directive 2013/11, 34
 holistic approach, 59
 Member States, 49–55
 Alassini vs. Telecom Italia, 51
 binding outcome, 49, 59
 challenges, 37
 Directive 2002/22, 51
 ECJ, 52, 55
 effective judicial protection, 50–52
 FOS, 54

- incentives and sanctions, 55
- mandatory ADR procedure, 52
- principle of effectiveness, 51, 52
- Regulation 524/2013, 37
- Consumer arbitration, 117-141
 - ADR Directive, 119
 - Art. 81(2)(e), TFEU, 118
 - cautious approach, 120-127
 - arbitrability of consumer disputes, 121
 - Arbitration Act, Sect. 8991, 125
 - Commission de clauses abusives*, 123
 - Cour de Cassation*, 124
 - domestic legislations, 122
 - German Code of Civil Procedure, Sec. 1030, 122
 - international commerce and international public policy, 124
 - Member States, 123
 - rationae materiae*, 122
 - rationae personae*, 122
 - Spanish Arbitration Act 2003, 126
- Consumer ADR Directive, 136-140
 - principle of legality, 139-140
 - principle of transparency, 138-139
- and National Law, 119-120
- public functions, 131-136
 - mechanism of observance and development of Consumer Law, 134-136
 - mechanism of transparency and *raison d'être*, 132-134
- public values, 127-131
- Consumer Insolvency Law, 759-789
 - democratization of consumer credit, 761
- Estonian Law, 764-783
 - adoption, DRDPA, 785-786
 - Bankruptcy Act, 764
 - debt counselling, 774-775
 - debt release, 770-771, 777, 783
 - debt restructuring, 769-770, 775-777, 782-783
- Debt Restructuring and Debt Protection Act (DRDPA), 765-766
 - voluntary/statutory debt settlement, 779-781
- EU Law on consumer over-indebtedness, 762-763
- harmonized legislation, EU, 760
- Norwegian Debt Settlement Act, 766-768
- Norwegian Law, 771-786
 - access to debt adjustment, 771-773
 - Debt Settlement Act, 777-778, 783, 786
 - municipal debt counselling services, 777
 - voluntary/statutory debt settlement, 781, 783, 784, 787
- Consumer protection and public policy, 791-822
 - Art. 114 TFEU, 793
 - Council Directive 93/13, 792-795
 - EU Provision, 815-817
 - EU public policy doctrine, 817-822
 - Charter of Fundamental Rights, Art. 38, 819
 - ECJ case law, 817, 819, 821
 - ECJ's teleological and dynamic interpretation method, 821
 - EU provisions, 817-818
 - ex officio obligation, 822
 - motor of integration, 820-821
 - national public policy doctrine, 819
 - principle of equivalence, 818
 - procedural national provisions, 817
 - public policy provision, 819, 821
 - ex officio model of reasoning, 796-799
 - Maastricht Treaty in 1993, 792
 - principle of effectiveness, ECJ case law, 799-809
 - Asturcom*, 803, 804
 - Aziz* case, 804-805
 - Banco Español de Crédito* case, 804
 - Charter of Fundamental Rights of the EU, Art. 47, 805

- Directive 93/13, 801, 804
 - Directive 87/102, Art. 11(2), 807
 - Directive 1999/44, Art. 3(5), 808
 - Duarte Hueros*, 807
 - ex officio obligation, 802, 806
 - Fabercase*, 808
 - judicial protection, 800
 - Kušionová*, 806
 - Océano* decision, 802
 - Pannon* case, 802, 803
 - Rampion* case, 806
 - rule of reason, 801
 - TEU, Art. 4, 800
 - TEU, Art. 19(1), 800
 - TFEU, Art. 267, 800
 - principle of equivalence, ECJ case law, 809–815
 - Asturcom*, 812
 - Directive 85/577, 813
 - Directive 93/13, 811, 813
 - Eco Swiss* decision, 812
 - ex officio, 810
 - Faber* case, 814
 - Martin Martin* case, 813–814
 - Mostaza* case, 811–812
 - Pohotovos* case, 814
 - Consumers, 271–286
 - accessorium sequitur principale*, 279–280
 - ancillary contracts, 279–282
 - co-debtorship, 282–285
 - definition, 272–273
 - dual purpose contracts, 276–277
 - facts and judgments, 271–272
 - functional criterion, 274–276
 - objectives, 273–276
 - protection of Consumer Credit
 - Directive 87/102/EC, 282–285
 - purpose of the contract, 277–279
 - subjective criterion, 273–274
 - weaker party protection, 274–276
 - Contract Law in Latin America, 287–296
 - Anglo-American principles, 288
 - BGB, 290
 - business-to-business consumer (B2C) relationships, 295
 - business-to-business (B2B) relationships, 295
 - Chilean contract law, 288
 - Cinderella complex, 290
 - civil law and common law, 295
 - classification, 290
 - concepts and conceptions, 292
 - European Law, 289
 - force majeure*, 294
 - French legal system, 294
 - future application, 292
 - German pandectism, 289
 - justification, 293
 - legal developments, 291
 - legal interpretation, 289
 - performance and non-performance, 294
 - PLACL, Art. 25, 293
 - PLDC, 295
 - Principles of European Contract Law (PECL), 287
 - Principles of Latin American Contract Law (PLACL), 287–296
 - single factor, 294
 - socio-economic disparities, 290
 - UNIDROIT Principles of International Commercial Contracts (UPICC), 287
 - United Nations Convention on Contracts for the International Sale of Goods, 291
- D
- Die Verjährung-von den Principles of European Contract Law bis zum Entwurf eines \$Gemeinsamen Europäischen Kaufrechts: Textstufen transnationaler Modellregeln, 687–726
 - Draft of a Common Frame of Reference (DCFR), 489–500
 - actio contraria*, 498–500
 - actio directa*, 495–498

- Art. III.-5:401(2), 495–497
- and *contrariae*, 496
- formulations, 497
- indirect representative and third party, 495
- legal relationship, 497
- limitation, 495–496
- non-performance requirement, Art. 3:302 PECL, 495
- right to performance, 498
- similarity, 498
- differences, 500
- direct and indirect representation, 492–495
 - Art. 3:102, 492
 - Art. 12, 493
 - civil law jurisdictions, Art. 13(1), 493
 - definition, representation, 493
 - employment agreement, 493
 - PECL and the UNIDROIT Convention, 494–495
 - principal and the third party, 494
- PECL, 490
- UNIDROIT Agency Convention and the Dutch Civil Code, 490, 491
- UNIDROIT Convention on Agency in the International Sale of Goods, 491
- Dutch trusts and trust-like arrangements, 973–993
 - assets, 974–976
 - bankruptcy, 975
 - beneficiaries, 974
 - civil law notaries and bailiffs, 984–986
 - dominium directum and dominium utile*, 977
 - fideicommissary substitution, 978–980
 - Fiducia cum amico*, 982–984
 - temporary transfer of shares to a nominee, 983–984
 - undertakings for collective investment in transferable securities (UCITs), 984
 - foundation (stichting), 986–989
 - and foundations, 989–992
 - asset protection, 992
 - private benefit purposes, 990
 - public benefit purposes, 989–990
 - separation of legal title and beneficial ownership, 991–992
 - ‘perpetual agreements’, 976
 - testamentary obligation and donation, 980–982
 - Treuhand*, 973
 - trustee, 974, 975
- Duties of trustees, 1031–1052
 - Common Law, 1031–1041
 - duty of care and skill, 1037–1038
 - duty of loyalty/ fiduciary duties, 1039–1041
 - duty to deal correctly with the trust property, 1032–1037
 - Czech Law, 1048–1051
 - duty of loyalty and duty of care and skill, 1049–1051
 - legal persons, 1048
 - nullities, 1049
 - ownership of the trust property, 1052
 - Quebec Law, 1042–1048
 - duty of loyalty, 1045–1046
 - duty of prudence and diligence, 1045
 - duty to account, 1046–1048
 - nullities, 1042–1044
- E
- Effectiveness of ADR Directive, 103–116
 - consumer protection, 106–108
 - EU-wide online platform, 105
 - groups of consumers, 111–115
 - Member States, 105
 - quality, 105
 - standard of average consumer implicitly, 108–111
- Unfair Commercial Practices Directive, 115
- Enforcement of consumer rights, ADR, 61–79

- ADR Directive and ODR Regulation, 63-68
 - cross-border, 67-68
 - EU-wide availability, 64-66
 - quality, 66-67
- cross-border ADR, 74-75
- development of EU Consumer Law, 75-78
- online dispute resolution (ODR), 62
- procedures, 69-72
- quality of ADR procedures, 72-74
- English as common legal language, civil law jurisdiction, 733-757
- bilingual drafting, 741
- common lawyer, global mindset, 750-752
- dispute resolution, Germany, 741-748
 - Art. 103, German Basic Law, 743
 - contract law, 744-745
 - Court Procedure Act, 741, 742
 - German legal court system, 745, 747
 - interactions, 748
 - Lingua Franca, 746
- drafting styles, 739-741
- legal education, 752-756
 - home students, 753-754
 - international students, 754-756
- mergers and acquisitions, 738-739
- EU case law, 553-578
 - categorization, French consumer protection rules, 575
 - consequences of unfairness, 575
- Dutch legal framework, 559-567
 - competition rules, 560-564
 - consumer law, 564-567
 - procedural, 559-560
- ex officio application of EU Law, 554-559
 - differences, 576-577
 - effectiveness, Art. 6 of Directive 93/13/ECC, 556-557
 - enforcement of an arbitration award, 557
 - general principle, procedural autonomy of Member States, 555-556
 - interaction, 577-578
 - interactions, 558-559
 - powers, national court, 556
 - unfairness of contractual terms, 554, 555
- Italian legal framework and ex officio declaration of nullity, 567-573
 - general rules and foundational principles, 567-570
 - implementation, Directive 93/13/EEC, 574
 - rules, *Corte di cassazione (Sezioni Unite)*, 571-574
- public policy rules, 576
- recognition, 573
- scope of the application of EU law, 574
- European Civil Code and National Private Law, 473-488
 - development, 474
 - difficulties, 487
 - economic motive, 475-476
 - formation of civil code, 477-482
 - foundations of the *Ius Commune*, 480-482
 - history, 477-480
 - French Code Civil (1804), 474
 - legal research, 487-488
 - legal unity*, 474
 - motivation, codification, 474-477
 - economic, 475-476
 - natural persons and legal entities, 477
 - state interest, 476
- Pandectist Law, 483-487
 - BGB, 485
 - branch of *ius commune*, 483-484
 - Civil Code in Germany, 483
 - Corpus Iuris Civilis*, 485
 - European level, 486-487
 - 'heutiges romisches Recht', Roman Law, 483

‘pandektistische Romanisierung des ABGB’, 484
 Roman ‘Volksgeist’, 485
 societal requirements, 485–486
 and South African Law, 483–484
 unification, 474

F

Family bonds and emotional ties, 203–222
 Catalan Civil Code, 205
 Catalan legislature’s approach, 221
 comparative law perspective, 210–214
 full recognition in Louisiana, 212–214
 limited effects in Austria, 211–212
 rejection in Germany, 211
 disinheritance, 204–205
 forced share, 204–205
 legislation in Catalonia, 214–220
 different interpretation, 219–220
 Judges’ interpretations, 217–219
 parent-child relationship, 214
 socially unacceptable behaviour, 219–220
 Spanish National Institute for Statistics (INE), 217
 too many ambiguities, 215–216
 morality and law, 206–210
 German Civil Code (BGB), 206–207
 longevity, 206
 material assistance, 207–208
 parent-child duties, 206
 Spanish Supreme Court, 208–210
 save the forced share, 220–221
 Spanish Civil Code, 205
 Fiduciary arrangements in Civil Law Countries, 1053–1074
 civil law jurisdictions, 1069–1074
 adoption of trusts and fiduciary contracts, 1069–1070
 San Marino’s Legislation, 1069–1074
 common law trusts, 1054
 France, 1060–1063

 duties of the fiduciary, 1068–1069
 role of the fiduciary, 1067–1068
 functions and duties, trustee, 1063–1069
 France, 1067–1069
 Italy, 1065–1067
 Luxembourg, 1063–1065
 Italy, 1057–1060
 foreign applicable law, 1066–1067
 Hague Convention of 1 July 1985, 1057–1059
 role and duties of the trustee, 1065–1066
 segregating assets to achieve interests ‘worthy of protection’, 1059–1060
 Luxembourg, 1055–1057
 duties of the fiduciary, 1064–1065
 Loi of 27 July 2003, 1056–1057
 règlement grand-ducal of 19 July 1983 on fiduciary contracts, 1055–1056
 role of the fiduciary, 1063–1064
 San Marino’s legislation, 1070–1073
 Italian approach, 1073
 legislation on fiduciary arrangements, 1070–1071
 2010 reforms, 1072–1073
 15th Annual Conference on European Tort Law, 1217–1236
 Bankruptcy Act, 1220
 comparative analysis, 1218
 Draft Common Frame of Reference (DCFR), 1233
 economic loss rule (ELR), 1217
 European Convention on Human Rights (ECHR), 1227
 fault-based liabilities, 1234–1235
Henderson vs. Merrett Syndicates, 1218
 immaterial damage, Art. 444, 1230
 Insurance Dispute Commission (IDC), 1223
 ‘late damage’ (daños tardíos), 1231
 liability, unknown risks, 1233
 memory card technology, 1221

- Michael vs. Chief Constable of South Wales*, 1222
- Montgomery vs. Lanarkshire Health Board*, 1229
- non-pecuniary loss, 1226-1227
- Oberster Gerichtshof* (OGH), 1219
- Product Liability Directive, 1232
- protection of personality, Art. 11, 1230
- State Liability Act, 1221
- G
- General principles of European Private Law, 331-351
- Audiolux* case, 333, 336-338
- Community law, 350
- derivatives of inductive and deductive reasoning, 338-342
- Cour de cassation*, 339
- empirical basis, 339-340
- equality of treatment, 341-342
- shareholders rights, 338
- diversity, 346-350
- Audiolux* case, 346
- community legislation, 347-348
- status and universality, 346-347
- variations, 348-350
- formulation, 350
- inductive reasoning and legal policy assessment, 342-346
- age differentiation, 342-344
- disparate interests of corporate actors, 344-346
- diversity of interests and equal treatment, 345-346
- generalization by means of interest assessment, 342
- limitation, 351
- Mangold* case, 333-336
- discrimination based on age, 336
- equality, 334-335
- non-discrimination on grounds of age, Community law, 333-334
- principles of private autonomy and freedom of contract, 335-336
- recognition, 335
- violation of Directive 2000/78, 335, 336
- methodological perspectives, 350
- scope of application, 350-351
- specific legal rule, 351
- Guardians of the charitable realm, 1141-1164
- Attorney General enforcement, 1144-1150
- common law powers and duties, 1144-1145
- difficulties, 1145-1150
- charity commissioners and charity regulators, 1150-1158
- common law experiences, 1153-1155
- english experience, 1151-1153
- tax authorities, 1155-1158
- charity tribunals, 1160-1161
- courts, 1158-1160
- private and public trusts, 1141-1144
- vs.* public benefit foundations, 1161-1164
- H
- Harmonization of civil procedure, 855-876
- Bundesgericht*, 856
- complexity, 875
- court organization, 872
- diversity in Switzerland, 870
- drafting procedure, 873
- European civil procedure code, 858-860
- EU/Switzerland comparisons, 869-872
- Expertenkommission*, 869, 871
- legitimate prioritization, 874
- migration crisis and British withdrawal, 876
- political and constitutional obstacles, 875
- pre-ZPO legal development in Switzerland shares, 870
- procedural law, 875
- quality and pragmatism, 874

- Swiss experience, 872, 876
- Swiss Unification Project, 860-869
 - chronological overview, 860-862
 - drafting of ZPO, 865-869
 - harmonization debate, 862-865
- Swiss *Zivilgesetzbuch* (ZGB), 861, 870, 871
- Swiss *Zivilprozessordnung* (ZPO), 857, 870
- territorial jurisdiction, 873
- uniform enforcement of federal private law, 856
- Horizontal direct/indirect effect of EU law, 673-686
 - Art. 85 EEC, 675
 - compatibility, 678
 - contractual relationships, 675
 - differences, 677-678
 - EU Directives, 674
 - European Court of Justice, 681-684
 - Busseni* case, 682-683
 - changes, applicable national law, 682
 - CIA Security* and *Unilever* cases, 682
 - compatibility, forms of private regulation, 684
 - Delhaize*, 684
 - equal pay principle, 684
 - general principles and fundamental rights, 683
 - Kucuckdevici* case, 683-684
 - Mangold* case, 683, 684
 - obligations, 681
 - private law relationship, 682
 - regulations, 681
 - EU rules, 676-678
 - jurisdiction and recognition, 674
 - legal disputes, 676
 - legal review of national legislation, 685
 - Private Law terminology, 679-681
 - legal desirability, 680-681
 - legal review and substitution, 679, 680
 - national implementing measures, 679-680
 - regulation, 680
 - relationship, private law, 674, 675, 677
 - substitution and exclusion, 678
 - terminology, 678
 - tort liability, 675
 - vertical relationships, 676
- Hungarian Civil Procedure Act and EU rules of civil procedure, 1237-1243
- ALI/UNIDROIT project, 1239
- ELI/UNIDROIT Principles, 1237-1238
- provisional and protective measures, 1241
- res judicata* and *lis pendens*, 1242
- substantive case management function, 1240
- uniform interpretation, 1243
- I
- Insolvency Law as the new company law for third parties, 877-891
 - centre of main interests (COMI), 885-891
 - creditors, 889-891
 - Kornhaas* judgment, 885-886
 - Kornhaas vs. Inspire Art*, 886-889
- CJEU's case law, 878-885
 - bundle of internal relations, 881-883
 - COMI, 883-885
 - freedom of establishment and creditor protection, 878-881
 - Kornhaas* judgment, 877-878
- Investment trust, 1091-1118
 - AIFM Directive, 1103
 - collective investment, transferable securities, 1101
 - design, trust structures, 1116
 - EU's regulatory framework, 1094
 - EU's UCITS rules, 1118
 - fiducie* to financial institutions, Luxembourg, 1117-1118

- The Hague Convention on Trusts, 1094
 - insurance corporations and pension funds, 1091-1092
 - investor rule, 1094
 - Markets in Financial Instruments (MiFID II), 1103
 - regulatory challenge, 1091-1094
 - regulatory technique, 1118
 - structures, 1091
 - UCITS and non-UCITS funds, 1102-1103
 - UCITS directive, 1101-1102
 - Uniform Statutory Trust Entity Act, 1100-1101
 - unit trusts, investment companies and contractual funds, 1104-1116
 - collective investments, 1113-1116
 - Ireland, 1104-1107
 - Liechtenstein, 1110-1113
 - United Kingdom, 1107-1110
 - US Law, 1095-1099
 - The Investment Company Act and the Trust Indenture Act, 1095-1097
 - The Uniform Prudent Investor Act, 1097-1099
- L
- La complementarité du droit national, international et européen: Perspectives pour les individus, 373-391
 - Les objectifs de l'harmonisation du droit des contrats Deux projets OHADA et les Principes OHADAC: objectifs contrastés, 393-408
 - Liability for inheritance in Poland, 189-202
 - acceptance, 191-192
 - Administration of Estates Act, 1925, 200-201
 - amendment, 195-196
 - Art. 1031 and 1032, Civil Code, 196-197
 - Art. 1015, Civil Code, 196
 - Austrian law, 199
 - branch of civil law, 191
 - concept of *hereditas iacens*, 199
 - creditors' claims, 201
 - Croatian Inheritance Law, 200
 - eastern bloc, 190
 - English-Welsh law, 200
 - estate transfer, legal successors, 192-193
 - former Polish law, 193-195
 - French law, 198-199
 - fundamental change, 197
 - Hungarian Civil Code, 200
 - judicial commissioner, 199
 - legal system, 190
 - models, 192
 - Polish civil law, 196
 - pre-war arguments, 197
 - principles, 190
 - public inventory, 196
 - regulation, 191
 - responsibility, 198, 202
 - stability and legal certainty, 198
 - transformation, 189-190
 - value protections, 201
 - Verlassenschaftsverfahren*, 199
 - Liability of third-party certifiers in the medical sector, 823-854
 - accreditation and accreditation bodies, 827-829
 - certification process, 829-830
 - conformity assessment procedure of medical devices, 830-833
 - notified bodies, 845-853
 - certification market, 846-849
 - floodgate concerns, 852-853
 - least-cost avoider argument, 849-850
 - optimum level of care argument, 850-851
 - risk spreading argument, 851-852
 - Poly Implant Prothèse (PIP) case, 833-845
 - breast implants, 833-834
 - private international law aspects, 841-845

- procedure before ECJ, 840-841
 - TüV Rheinland* in France, 839-840
 - TüV Rheinland* in Germany, 834-838
 - private international law aspects, 841-845
 - Applicable Law, 844-845
 - jurisdiction, 841-844
 - standardization and standard-setting bodies, 826-827
- N
- Nudge 2.0: Behavioural analysis of law, 297-322
- vs.* behaviourally informed regulation, 302
 - economics, 300, 301
 - in the EU, 314-322
 - behavioural insights, 314
 - conservative and progressive parties, 314
 - holistic psychology, 319-320
 - individual and institutional learning, 320
 - managing empirical uncertainty, 317-318
 - necessary normativity, 315-317
 - neoclassical/behavioural dichotomy, 319-320
 - normative potential, 315-317
 - personalization, 321-322
 - Expected Utility Theory (EUT), 300-301
 - history, 299-301
 - methodological and theoretical level, 305-310
 - behavioural trade-offs, 307-308
 - EU and the US nudging environment, 305-306
 - expertise, 306-307
 - transparency and autonomy, 308-310
 - Office of Information and Regulatory Affairs (OIRA), 301
 - pure public nudging *vs.* regulation of private nudging (counter-nudging), 302-305
 - self-interest, 300
 - substantial fields of law, 310-314
 - health and lifestyle, 311
 - privacy, 312
 - redesigning the disclosure paradigm, 313-314
- O
- Online payments, Transnational Law, 223-251
- business-to-business (B2B), 225
 - business-to-consumer (B2C), 225
 - consumers and small-and-medium enterprises (SMEs), 225
 - European and transnational legal scholarship, 224
 - fraud affects, 225
 - and global consumer commerce, 234-250
 - bank-based payment methods, 235
 - business-to-business (B2B) relationships, 234, 235
 - communication, 234
 - consumers and SMEs, 234
 - cross-border payment services, 250
 - digital currencies, 236
 - digital wallets, 236
 - effect of state-made laws, 244-250
 - global payments network, 238-239
 - internet-based payment solutions, 236
 - internet providers of payment services, 250
 - low-cost cross-border payments, 250
 - non-banks, 250
 - PayPal, 236, 250-251
 - peer-to-peer exchange platforms, 235-236
 - private consumer protection, 241-244
 - privatized payments law, 240-241
 - state laws, 251
 - trusted third party, 237-238
 - global payment systems, 225
 - global trade, 228-233

- bill of payment in Medieval Europe, 229-231
 - economic development, 228
 - exchanges, 228-229
 - goods or services, 228
 - long-distance or transnational trade, 229
 - private payment systems, 232-233
 - social networks, 229
 - uniform customs and practice for documentary credits (UCP), 231-232
 - legal order, 226-228
 - non-cash monetary payments, 224
 - PayPal, 225
- P
- Parental liability for cartel infringements, 513-527
 - antitrust liability, Art. 101 TFEU, 515-520
 - economic unit, 515-516
 - single economic unit doctrine in Akzo Nobel, 516-521
 - civil liability, 521-526
 - compatibility, National Approach with EU Law, 524-526
 - damages, 516
 - Directive 2014/104/EU, 517
 - National (Dutch) Company Law, 522-523
 - substantive and procedural rules, 516
 - competition law, 527
 - competition rules, 514
 - EU law on national private law, 514, 515
 - principle of free movement, 514
 - subsidiary's conduct, 526
 - Penalty clauses in English Law, 353-372
 - anomaly of, 355-356
 - appeals, Supreme Court, 363-364
 - Beavis* case, 363, 364
 - Cavendish* case, 363-364
 - commercial justification, 360-362
 - criteria, protection, 366-367
 - deterrence to protect a wider interest, 362-363
 - exemption, 367-368
 - interests of third parties, 371
 - limits, 359-360
 - manifest disproportion, 368-369
 - modern judicial attitudes, 358-359
 - Principles of European Contract Law, 371-372
 - protection, less sophisticated/powerful businesses, 365-366
 - protection of legitimate interests, 370-371
 - traditional approach, 356-358
 - Product Liability Law, 619-643
 - BGH's decision, 638-639
 - duty to pay unannounced visits, manufacturer, 641-642
 - EU case, 621-628
 - Boston Scientific Litigation*, 624-625
 - compensation, 627-628
 - regulation of medical devices, 625-627
 - general duties, inspection/unannounced visits, 642-643
 - legal and economic issues, 621
 - medical devices, 621
 - onus of proof, 640
 - principle of effectiveness, private law, 620
 - Product Liability Directive, 620
 - TÜV Rheinland* in PIP Scandal, 628-638
 - breaches, obligations of control, surveillance and vigilance, 629
 - civil law remedies, 636-637
 - civil liability, 629-630
 - extension of state liability, 634-636
 - health protection, 629
 - inspection duties, 639
 - national tort law, 628, 629
 - preliminary ruling, BGH, 631-632
 - Rome II Regulation 864/2007, 629
 - safety mechanisms, medical device directive, 637-638

- surveillance, 630-631
 - third-party protection, EU Competition Law, 633
 - US, 621-624
 - compensation mechanism, 622-623
 - impact of regulation, liability claims, 623-624
 - strict liability defective products, 621-622
- R
- Recognition of trust, 1165-1188
- adaptation, 1183-1187
 - duties of the trustee, 1185-1186
 - lex fori, 1187
 - ordre public, 1183
 - partial recognition, 1187
 - praeter legem/contra legem, 1186
 - trustee's registration, 1187
 - creation of trust, 1170
 - definition, 1169
 - law of property, 1169
 - law of succession, 1170
 - legal institution, 1165-1166
 - legal institutions and relationships, 1180
 - methodology, 1168
 - practice, 1172-1180
 - conflict-of-law issues, 1174-1175
 - Czech Republic, 1177-1178
 - Germany, 1178-1179
 - Hague Convention, 1172-1174
 - Italy, 1176-1177
 - Switzerland, 1175-1176
 - problem, 1167-1168
 - qualification, 1182
 - separation, assets, 1170
 - settlor-trustee relationship, 1169
 - single law, 1182-1183
 - types of trust, 1170-1172
- Religion, Werte und Recht, 903-911
- Risk of 'misusing' trusts, Italy, 1119-1139
- Czech Republic, 1119-1120
 - developments, 1120-1121
 - Hague Trusts Convention, 1123-1125
 - interests of forced heirs of the settlor, 1134-1136
 - interests of third parties dealing with trustees, 1136-1138
 - protecting the interests of creditors of the settlor, 1125-1133
 - Art. 2929-bis C civ, 1129-1130
 - Art. 2901 C civ, 1126-1127
 - bankrupt settlor, 1130-1131
 - powers, 1133
 - recent case law, 1127-1129
 - sham trusts, 1131-1133
 - purposes, 1120
 - trust interno* (internal trust), 1121-1123
 - vulnerable beneficiary, 1121
- S
- Saunders vs. Vautier* principle, 1011-1029
- application, 1013
 - beneficiaries, 1012-1014
 - common law jurisdictions, 1014-1016
 - and Czech Trust Law, 1016-1019
 - justification, 1019-1029
 - beneficiary principle, 1021-1022
 - conflicts between the trustees and the beneficiaries, 1025-1026
 - Czech Law, 1026
 - drafting around the rule can be avoided, 1023-1024
 - equitable ownership of the beneficiary, 1026-1028
 - other rights of the beneficiary, 1022-1023
 - Québec Trust Law Attempted to Come Closer to English Law, 1020
 - right to liberty, 1020-1021
 - trust distinction, 1028-1029
 - trust is not a contract, 1023
 - trust marketable, 1024-1025
- T
- 'Towards' a Private Law Embedded in Social Theory: Eine Skizze, 409-423

- Trustee position, 1075-1090
 - advantages and disadvantages, 1078-1083
 - natural persons, 1079-1080
 - regulated legal entities, 1080-1081
 - unregulated persons, 1081-1082
 - Czech regulation, 1077-1078, 1085
 - foreign regulation, 1076-1077, 1084-1085
 - professional and non-professional trustees, 1085-1090
 - mitigation of damages, 1089-1090
 - modification of the standard of care, 1087-1088
 - subjective/objective test, 1088-1089
- Trust in Quebec and Czech Law, 929-950
 - affected patrimonies, 944-950
 - appropriation, 944
 - Art. 911 CCQ, 946
 - Art. 915 CCQ, 946, 947
 - Art. 17 CzCC, 949
 - Art. 495 CzCC, 947, 948
 - Art. 501 CzCC, 948
 - Art. 1448 CzCC, 950
 - autonomous, 945
 - nature of, 930-938
 - Art. 1260 CCQ, 931
 - Art. 1261 CCQ, 932
 - Art. 1278 CCQ, 933
 - Art. 1448 CzCC, 934
 - civilian concepts, 935, 936
 - definition, 930
 - detention of trust property, 931
 - Lepaullian trust, 937
 - patrimonies, 935, 936
 - patrimony, 938-944
 - Art. 2 CCQ, 943
 - Civil Code of Lower Canada, 938
 - Civil Code Revision Office (CCRO), 939-941
 - distinct patrimony, 941
 - private law, 942
 - Royal Trust vs. Tucker*, 939
- Trusts and ownership, 951-972
 - Art. 1448(3), 951
 - Ayerst vs. C & K Construction Ltd*, 962
 - beneficiary does not have equitable version, 964-966
 - charitable trusts have no beneficiaries, 963-964
 - civil law systems, 967-969
 - common law, 952-958
 - 'by operation of law', 955
 - charitable purposes, 953
 - consequences, 956-958
 - 'constructive trusts,' 955
 - Don King vs. Warren*, 955
 - equity, 956
 - rights on trust, 953
 - Saunders vs. Vautier*, 954
 - trusts names, 952
 - Czech trust, 969-972
 - English law, 958-961
 - self-declaration of trust, 966-967
 - splitting of ownership, 962
- Trust types and ownership, 1189-1216
 - adopting trusts, 1190-1194
 - Anglo-Saxon legal systems, 1189
 - civil law and mixed jurisdictions, 1196-1197
 - in general, 1195-1196
 - legal arrangements, 1202-1211
 - France, 1208-1209
 - Germany and Austria, 1202
 - Hungary, 1210-1211
 - Liechtenstein, 1208
 - Louisiana, 1204-1205
 - Luxembourg, 1209-1210
 - Romania, 1210
 - Scotland, 1206-1207
 - Switzerland, 1202-1203
 - management, property, 1197-1201
 - Georgia, 1201
 - Israel, 1197
 - People's Republic of China, 1198-1201
 - Russia, 1198
 - property, 1211-1213
 - Czech Republic, 1212-1213
 - Québec, 1211-1212

- purpose trust, 1213-1215
 - right of management, 1213
 - Treuhand* model, 1216
- U
- Überlegungen zu dem schwierigen Verhältnis von EU-Privatrecht und nationalem Privatrecht, 579-600
 - Unfair contract terms and the consumer, Dutch law, 457-472
 - abstract or concrete control, 463-464
 - Art. 7(1), 471
 - Banesto: 'geltungserhaltende Reduktion,'* 466-469
 - burden of proof, 471-472
 - collective remedy, 471
 - contra proferentem*, 462-463
 - enactment of a new Civil Code, 460
 - enforcement, 471
 - European Court of Justice's (ECJ) case law, 460
 - EU Unfair Contract Terms Directive, 460
 - ex officio application, 464-466
 - information, 461-462
 - Kasler*, 469-470
 - Unification of Patrimonial Laws, International Trade, 501-512
 - CISG, 509-511
 - civil law and common law, 510
 - cross-border trade, 508
 - definition, 502-503
 - differences, contract law, 509-510
 - drafting, PECL, 502
 - EU law, 502
 - globalization, 501
 - indications, 509
 - international uniform law, 511
 - interpretation, 508, 510
 - justice and political views, 506-507
 - law of torts and movable property, 510
 - legal cultures, 508
 - legal rule, 511-512
 - legal values, 507-508
 - psychological and economic, 508
 - risks, 511
 - sources of law, 503-505
 - doctrine, 505
 - judicial decisions, 503-504
 - Uniform rules for European Contract Law, 1245-1250
 - consumer law, 1249-1250
 - European and non-European courts and legislatures, 1248-1249
 - harmonization of rules, 1245
 - Lando Commission, 1245
 - uniformity/diversity, 1246-1248
 - Unilateral promises, 529-552
 - Ballast plc vs. Laurieston Properties Ltd.*, 540-541
 - bilateral/multilateral commercial transaction, 543
 - Countess of Cawdor vs. Earl of Cawdor*, 541
 - DCFR, 543-544
 - definition, 538-539
 - Draft Common Frame of Reference (DCFR), 532-533, 550-551
 - binding effect, Art. II, 532
 - conduct of the parties, 551
 - party's intention, Art. II.-4:302, 532-533
 - provisions, 533
 - reject, persons right/benefit, Art. II.-4:303, 533
 - requirements, Art. II.-4:301, 532, 550
 - European Contract Law, 530
 - general concept, 550
 - general requirement, 543
 - Krupp Uhde GmbH vs. Weir Westgarth Ltd.*, 540
 - new Dutch Civil Code, 530-531
 - presumption, 542
 - Principles of European Contract Law (PECL), 531-532
 - Royal Bank of Scotland vs. Carlyle*, 546-550
 - Scots law, 534-538
 - contract and unilateral promise, 534
 - enforceability of obligation, 535
 - liberty, 534

mid-nineteenth century, 536
recognition, 535-536
third-party rights, 537-538
twentieth century, 536-537
suspensive/resolutive conditions,
544-546

Van Klaveren vs. Servisair UK Ltd,
542

Y

Young Property Lawyers Forum (YPLF)
Colloquium 2015, 893-896