

Editorial

Recommendations to Legislators and/or Courts

L.S.

We conclude this 33rd volume of our Journal with a double issue full of interesting contributions. Most of them deal basically with contract law, all – except one on succession law – deal with matters of the law of obligations. Nevertheless, they touch upon important matters transcending contract law. At least some deal with the question how to promote a more sustainable economic and social behaviour. The article by Thomas Möllers and Julian Glas on paying for returns in distance contracts shows the importance of impact assessments and discusses a case where the disastrous impact of a certain consumer protection rule has clearly not been anticipated. They address the European legislator to improve the rule. In a contribution on authorized push payment fraud by nine authors, a more responsible behaviour is asked from payment service providers who could do more to monitor and prevent fraud. The authors equally address the European legislator with several proposals to improve the Payment Services Regulation. In her contribution on the public and private enforcement of EU digital space private law, Olha Cherednychenko equally addresses the legislator with recommendations to bring about a better coordination between both modes of enforcement. On the other hand, in his contribution ‘Civil climate change litigation between law and politics’, Thomas Pfeiffer discusses the political and legal implications of ‘strategic’ climate change litigation, where actors do not wait for the legislator, but use the courts for political purposes. The article does not only discuss the general limitations typical of the judicial decision-making process, which affect the suitability of litigation as a means of addressing climate change, but also more technical questions of EU law and conflicts of law. He recommends courts to respect the limits of their competence and the judicial decision-making process and those of the rules governing cross-border effects of the cases submitted.

A few more contributions deal with aspects of the digital revolutions, a more technical article by Furkan Güven Taştan on the liability of crypto-asset service providers, and a more philosophical one by Anshuman Sahoo & Arindam Basu on contracting with artificial intelligence. We further offer some articles on more traditional questions of contract law, Angela Carpi on supervening events and frustration of contracts, and one by Emiel Schipper on the conflict of law rules on assignment, more specifically on assignability. We conclude with a thorough analysis of the freedom to make a last will in Chinese law, with

interesting sociological considerations, and a review of Morten Fogt's book 'The circle of law harmonisation'.

Enjoy reading!

Matthias E. Storme,
Co-editor in chief