

Univ.-Prof. Dr. Andreas Schwartze, LL.M. (EUI)  
Department of Private Law Faculty of Law,  
University of Innsbruck

Erasmus Intensive Course – Law Faculty of Lisbon University

## **Introduction to European Private Law - From national rules on Contract and Tort to supranational European Union Obligation Law**

### Course syllabus

#### Class 1

**Introduction:** Differences of national private laws in Europe; Legal families; Selected examples from Common Law and Civil Law; Problems of diverging legal rules within the EU (hindrance to the internal market)

#### Class 2

**Approximation of Private Law:** Competences of the EU in general (types, exercise); Competences executed (to harmonise legal rules); Instruments of EU-law (Directives; Regulations)

#### Class 3

**Traditional European Contract Law:** Harmonization by Directives (Contracts, national and international civil procedure, corporations, conflict of laws); Example: Unfair Contract Terms Directive 93/13/EEC / Consumer Sales Directive

#### Class 4

**A new Strategy:** Development, format and functions of the (Draft) Common Frame of Reference (DCFR); Structure and contents of the DCFR; the Four Basic Principles and the General Part of the DCFR; Further concepts: Proposal of a Common European Sales Law (CESL) / Revival: Two new Directives (on Contracts for Sales of Goods EU 2019/771 and Contracts on the Supply of Digital Content EU 2019/770)

#### Class 5

**Unified EU Principles on Contracts and Tort:** DCFR Book IV.A “Sales” and Proposal of Common European Sales Law (CESL) compared to CISG; Principles of European Tort Law (PETL) vs. DCFR Book VI “Noncontractual liability arising out of damage caused to another“

## Reading List

## Articles

- Hesselink*, The Common Frame of Reference as a Source of European Private Law, 83/4 Tulane Law Review (2008) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1270](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1270)
- Johnston/Unberath*, European private law by directives: Approach and challenges, in: *Twigg-Flesner* (Ed), European Union Private Law (2010), Ch. 7
- Loos*, Standard Contract Terms Regulation in the Proposal for a Common European Sales Law, Zeitschrift für Europäisches Privatrecht 2012 (4), pp. 776-796  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2081857](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2081857)
- Manko*, EU Competence in Private Law: The Treaty Framework for a European Private Law and Challenges for Coherence, Brussels: European Parliamentary Research Service, 2015  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2553945](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2553945)
- Micklitz/Reich*, The Commission Proposal for a “Regulation on a Common European Sales Law (CESL)”  
[https://cadmus.eui.eu/bitstream/handle/1814/20485/LAW\\_2012\\_04\\_ERPL\\_03.pdf;sequence=3](https://cadmus.eui.eu/bitstream/handle/1814/20485/LAW_2012_04_ERPL_03.pdf;sequence=3)

## Books (Additional Reading)

- Alpa/Andenas*, European Private Law (2022)
- Antoniolli/Fiorentini* (Eds), A factual assessment of the draft common frame of reference (2011)
- Basedow*, EU private law: anatomy of a growing legal order (2021)
- Bussani/Werro* (Eds), European Private Law: A Handbook Vol I (2009) / Vol. II (2014)
- Bogdan / Maunsbach*, EU Private International Law: An ECJ Casebook, 2<sup>nd</sup> ed. (2012)
- Cafaggi / Muir-Watt* (Eds.), Making European Private Law – Governance Design (2008)
- Hartkamp/Hondius* (Eds), Towards a European civil code, 4<sup>th</sup> ed. (2011)
- Hartkamp / Sieburgh / Devroe* (Eds.), Cases, Materials and Text on European Law and Private Law (2017)
- Howells/Twigg-Flesner/Wilhelmsson*, Rethinking EU Consumer Law (2018)
- Koziol*, Harmonisation and fundamental questions of European Tort Law (2017)
- Micklitz/Cafaggi* (Eds), European Private Law after the Common Frame of Reference (2010)
- Moccia* (Ed), The making of European private law: why, how, what, who (2013)
- Larouche* (Ed), Economic analysis of the DCFR - The work of the Economic Impact Group (2010)
- Reich/Micklitz/Rott/Tonner*, European Consumer Law, 2<sup>nd</sup> ed (2014)
- Sagaert / Storme / Terryn* (Eds), The Draft Common Frame of Reference: national and comparative perspectives (2013)
- Schulze* (Ed.), Common Frame of Reference and Existing EC Contract Law, 2<sup>nd</sup> ed. (2009)
- SpSchulze / Schulte-Nölke* (Eds.), European Private Law – Current Status and Perspective (2011)
- Schulte-Nölke/Tichy* (Eds), Perspectives for European Consumer Law - Towards a Directive on Consumer Rights and Beyond (2010)
- Sammur*, Constructing Modern European Private Law: A Hybrid System (2016)
- Twigg-Flesner* (Ed), European Union Private Law (2010)
- Vranken*, Fundamentals of European Civil Law, 2<sup>nd</sup> ed. (2010)
- Van Calster*, European Private International Law (2021)