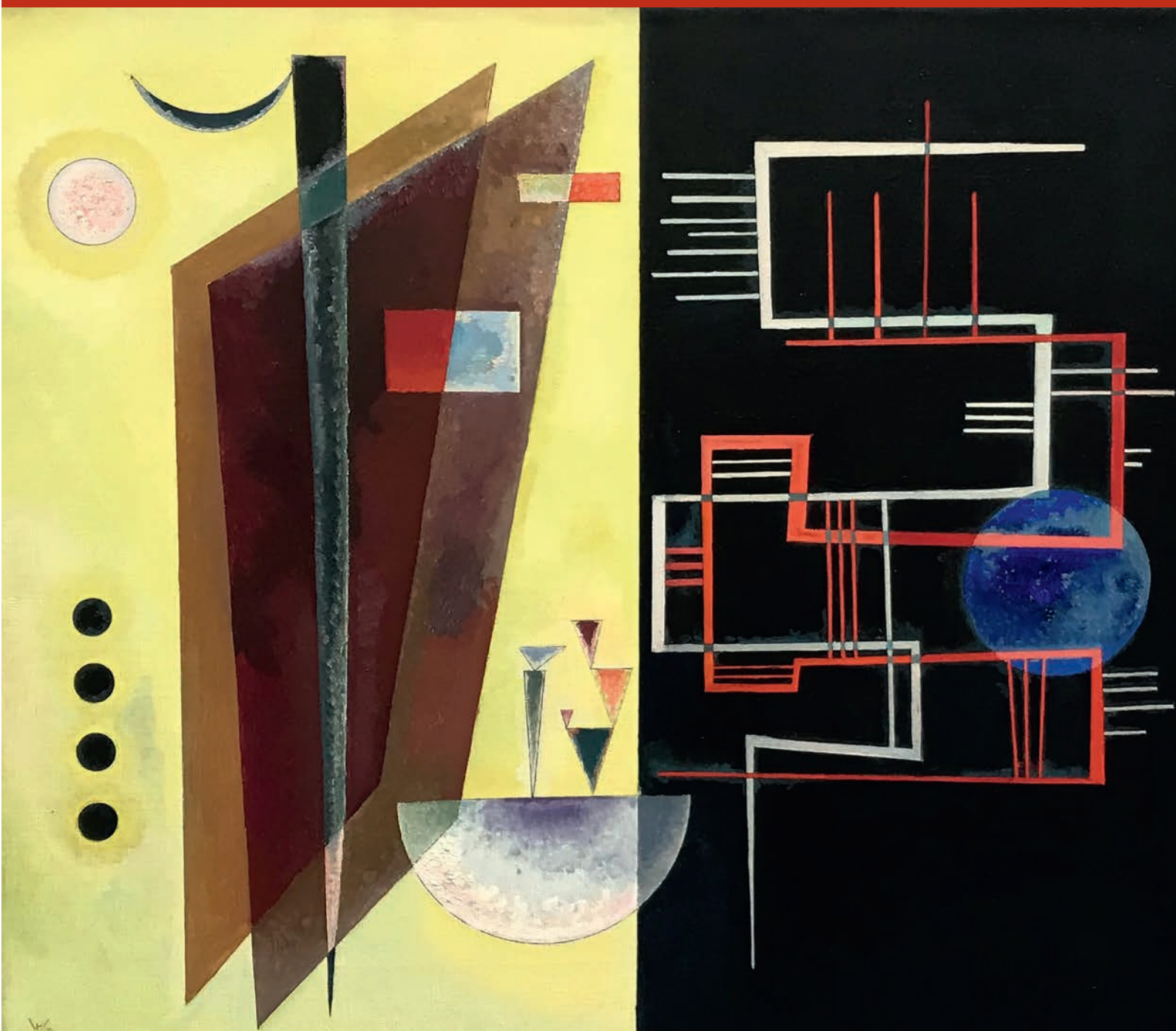


# New and forthcoming publications

## Catalogue 2019

LAW / HUMAN RIGHTS / BUSINESS & FINANCE



Dear Readers, Authors, and Friends of Intersentia,

2019 will be a year of new ideas and continued growth at Intersentia. We are expanding further and you will discover new book series and a wider range of topics in our new catalogue.

For example, titles on **Law, Information and Technology** provide solutions on how personal data could be protected to prevent a new Cambridge Analytica (*Effective Privacy Management for Internet Services* by Marcin Betkier), or how the internet could be policed by intermediaries without limiting freedom of expression (*Intermediary Liability and Freedom of Expression in the EU* by Aleksandra Kuczerawy).

The new series Intersentia Studies on **Courts and Judges** provides unique insights into judicial law-making and the application of law in courts. Books in this series go beyond the technique of law and also cover behavioural, economic, and cultural aspects that may influence the courts. Just to name two of the books in the series: *Judicial Law Making in English and German Courts* (Martin Brenncke), and *Cultural Difference and Economic Disadvantage in Regional Human Rights Courts* (Valeska David).

Another new series, Intersentia Studies in **Comparative Family Law**, takes family law to the international stage, extending beyond Europe and our world-leading European Family Law (EFL Series) and complementing the *International Survey of Family Law*, now also published by Intersentia. Brand new series titles include *Adults and Children in Postmodern Societies*, edited by Jehanne Sosson, Geoffrey Willems and Gwendoline Motte, and *Eastern and Western Perspectives on Surrogacy*, edited by Jens M. Scherpe, Claire Fenton-Glynn, and Terry Kaan.

That's not all: in the area of **Legal History**, short, accessible and witty historical insights into legal concepts important to both private and public law today trace the legal journey that we have embarked upon, and which remains ongoing, since Roman times. Looking backwards is an important tool to help us look forward, so you might find *A Short History of Legal Validity and Invalidity* (Maris Köpcke) and *Justinian's Digest 9.2.51 in the Western Legal Canon. Contemporary Causality Concepts in Historical Perspective* (Wolfgang Ernst) particularly interesting reads.

New challenges await and our new and forthcoming titles continue to map and comment on these developments. While the future and extent of Brexit continues to be uncertain, we will be ready should it happen: check out the progress of [www.navigatingbrexit.co.uk](http://www.navigatingbrexit.co.uk) where you will find the legal implications of Brexit regularly updated across the relevant subject areas.

With best wishes for a good 2019,

*Ann-Christin Maak-Scherpe and Richard Hart*

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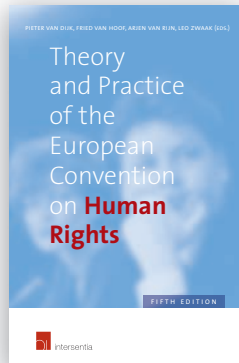
The titles on the following pages, and titles bearing this symbol throughout the catalogue, are particularly recommended as useful books for students, and a corresponding student price is usually available. We are always willing to discuss student arrangements for other books. If you are a lecturer or course convenor interested in receiving an inspection copy, please contact us on [mail@intersentia.co.uk](mailto:mail@intersentia.co.uk), or visit our website for our inspection copy policy.

Prices marked with a \* are applicable to students only. Retail prices can be found elsewhere in the catalogue or on our website.

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If you would like to submit a book proposal, please address it to Ann-Christin Maak-Scherpe, publisher and general manager at Intersentia Cambridge, by e-mail: [ac.maak@intersentia.co.uk](mailto:ac.maak@intersentia.co.uk). Please refer to the 'Guidelines for Prospective Authors' on our website, and if you have any questions, please do not hesitate to ask.

## Teaching materials

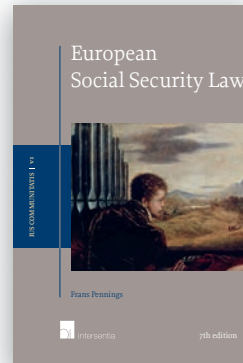


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### Theory and Practice of the European Convention on Human Rights 5th edition

P. van Dijk, F. van Hoof, A. van Rijn and L. Zwaak (eds.)

ISBN 978-1-78068-494-9  
xviii + 1230 pp. | paperback  
2018 | \*€ 55 | \$ 66 | £ 52



See page 45

### European Social Security Law 7th edition

F. Pennings

*Ius Communitatis Series, Volume 6*  
ISBN 978-1-78068-816-9  
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2019 | \*€ 50 | \$ 60 | £ 48

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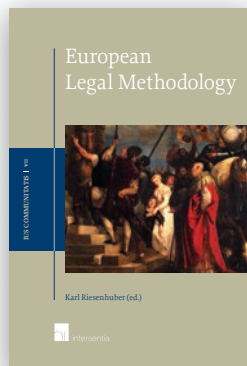
P. Boeles, M. den Heijer, G. Lodder and K. Wouters (eds.)

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N. Reich, H.-W. Micklitz, P. Rott and K. Tonner

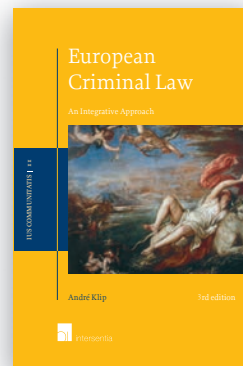
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xxx + 752 pp. | hardback  
2017 | \*€ 50 | \$ 60 | £ 48



### European Criminal Law An Integrative Approach 3rd edition

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### European Employment Law

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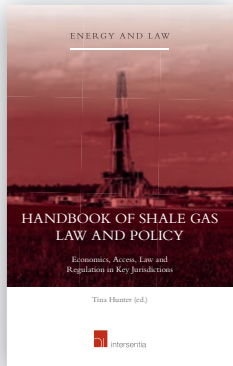
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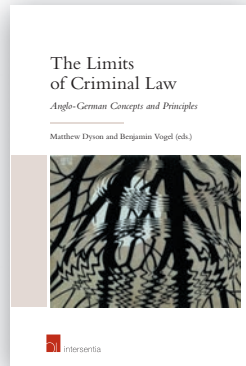
*Ius Communitatis Series, Volume 1*  
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# Teaching materials



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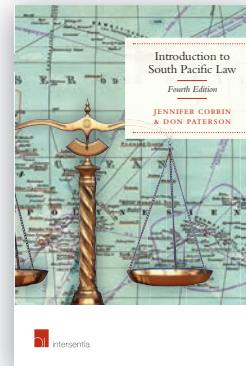
*Energy and Law, Volume 18*  
ISBN 978-1-78068-242-6  
xvi + 398 pp. | hardback  
2016 | \*€ 45 | \$ 54 | £ 43



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**The Limits of Criminal Law**  
*Anglo-German Concepts and Principles*  
*Student edition*  
M. Dyson and B. Vogel (eds.)

ISBN 978-1-78068-789-6  
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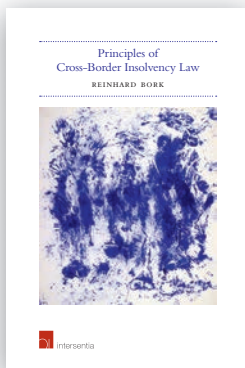
**Introduction to South Pacific Law**  
*4th edition*  
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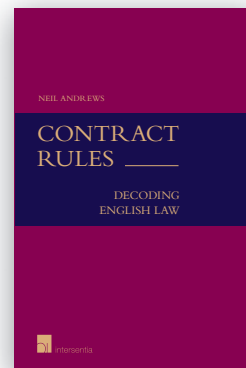
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N. Andrews

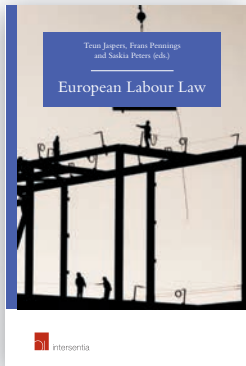
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2016 | \*€ 41 | \$ 49 | £ 39



**The UK after Brexit**  
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# Teaching materials

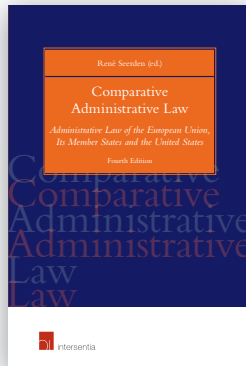


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## European Labour Law

T. Jaspers, F. Pennings  
and S. Peters (eds.)

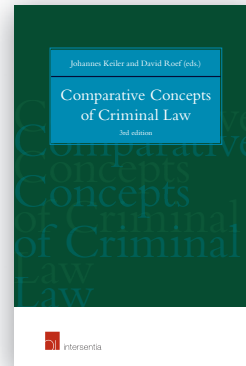
ISBN 978-1-78068-704-9  
approx. 582 pp. | paperback  
2019 | \*€ 45 | \$ 55 | £ 43



## Comparative Administrative Law

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R. Seerden (ed.)

ISBN 978-1-78068-630-1  
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2018 | \*€ 50 | \$ 60 | £ 48

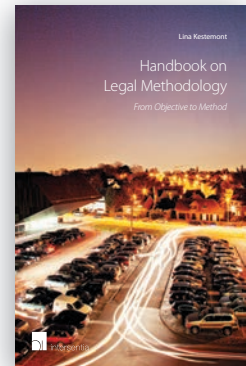


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## Comparative Concepts of Criminal Law

*3rd edition*  
J. Keiler and D. Roef (eds.)

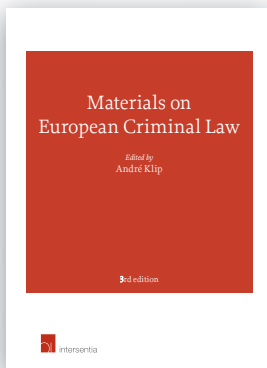
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2019 | \*€ 39 | \$ 47 | £ 37



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*From Objective to Method*  
L. Kestemont

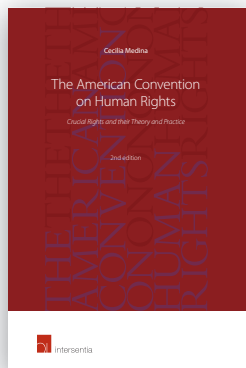
ISBN 978-1-78068-673-8  
xiv + 98 pp. | paperback  
2018 | \*€ 22 | \$ 26 | £ 21



## Materials on European Criminal Law

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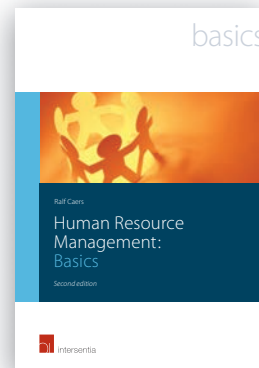
ISBN 978-1-78068-504-5  
xvi + 1362 pp. | paperback  
2017 | \*€ 36 | \$ 43 | £ 34



## The American Convention on Human Rights

*Crucial Rights and Their Theory and Practice*  
*2nd edition*

C. M. Quiroga  
ISBN 978-1-78068-321-8  
xxvi + 374 pp. | paperback  
2016 | \*€ 50 | \$ 60 | £ 48

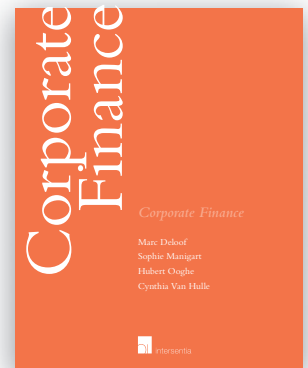


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## Human Resource Management: Basics

*2nd edition*  
R. Caers

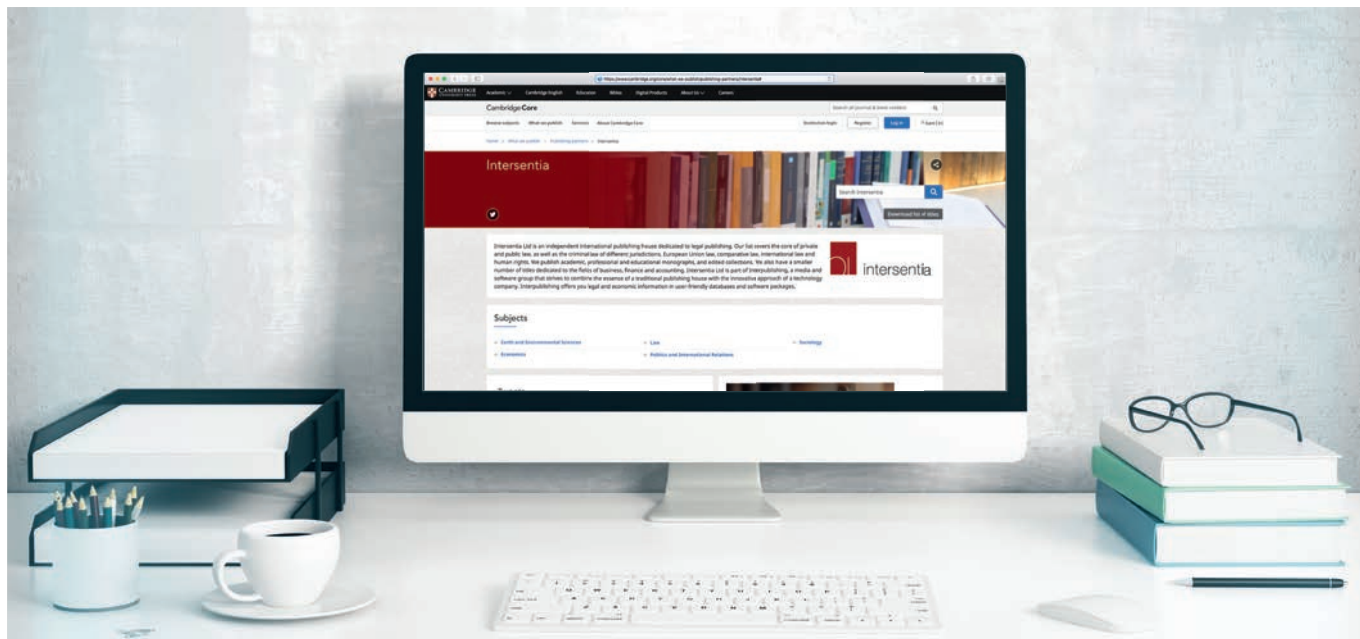
ISBN 978-1-78068-771-1  
xiv + 278 pp. | paperback  
2018 | \*€ 30 | \$ 36 | £ 29



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## Corporate Finance

M. Deloof, S. Manigart,  
H. Ooghe and C. Van Hulle  
ISBN 978-1-78068-654-7  
approx. 450 pp. | paperback  
2019 | \*€ 59 | \$ 71 | £ 56



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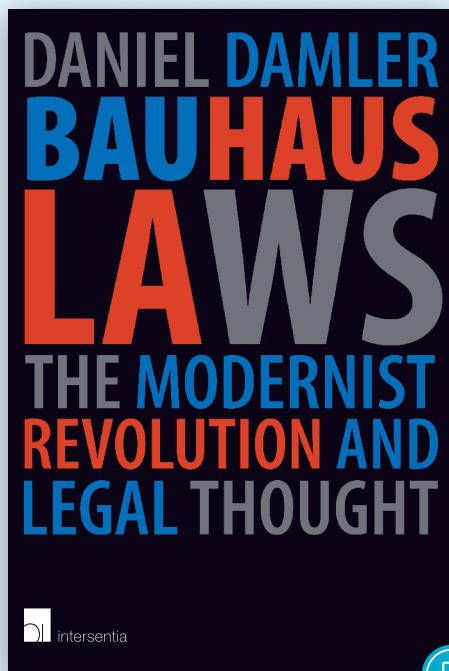
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### **Bauhaus Laws**

*The Modernist Revolution and Legal Thought*

D. Damler

ISBN 978-1-78068-834-3

approx. 150 pp. | paperback

2019 | € 49 | \$ 59 | £ 47

“

**It is also aimed at readers who believe in political self-determination and the autonomy of the legal system.**

”

The year 2019 marks the centenary of the founding of the Bauhaus, arguably the most influential school of art and design in the modern era. Commemorative activities will focus on its culture-historical significance, with scant attention being paid to a more fundamental question: the ramifications on legal and political thinking caused by the deep-seated transformation of the material world during the so-called age of extremes.

Daniel Damler reveals the finely woven fabric of material and intellectual culture, using the example of New Objectivity to show how radical changes in the design and material vocabulary of objects generate new political and legal paradigms. It was contemporaries of the Bauhaus revolution who began to apply aesthetic maxims such as ‘functionality’ and ‘clarity’ to the state and political thought. Our present-day demands for the ‘transparency’ of governments and parliaments (without really knowing what we even mean by this) are very much a part of this tradition.

After the watershed of 1914, the ‘virtues’ associated with glass, steel and functional forms served as a surrogate for the lost ideological consensus in the fragmented societies of modernity. Examining the works of prominent twentieth-century legal scholars, Damler discovers a remarkable intertwining of the material and the intellectual, while offering new insights into the proto-legal spaces of imagination of leading architects such as Le Corbusier and Bruno Taut.

*Bauhaus Laws* offers an extraordinary and timeless look at the shadow empire of legal aesthetics. His plea to take seriously the internal dynamics of concepts and figures of thought borrowed from material culture is addressed to legal scholars, political scientists and anthropologists, as well as to architects and designers. It is also aimed at readers who believe in political self-determination and the autonomy of the legal system.

# Banking Law, Financial Law and Regulation



## European Contract Law in the Banking and Financial Union

S. Grundmann and P. Sirena (eds.)

*European Contract Law and Theory, Volume 4*

ISBN 978-1-78068-662-2

approx. 270 pp. | paperback

2019 | € 79 | \$ 95 | £ 75

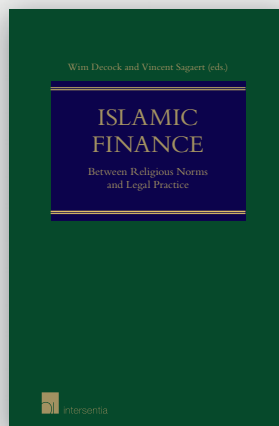


The Society of European Contract Law (SECOLA) promotes the development and understanding of European contract law including its economic, sociological and intellectual historic relation in theory and in practice. Further, SECOLA provides an international platform for the discussion of developing and proposed contract law in Europe.

In this spirit, the book series European Contract Law and Theory (EUCOLATH) combines dogmatic thinking in comparative and EU law with strong social theory considerations and makes the results of the discussions of leading scholars and practitioners publicly available.

The European Banking Union, with its own EU supervisory institutions such as the ECB, has had

us forget that banking law mainly consists of transactions with and between clients. It is to a large extent (European) contract law. This volume investigates how the post-crisis supervisory regime of the EU and the Eurozone impacts on bank managers' duties and on market transactions: in their relationship to the large range of stakeholders, including the public as such, in current lending and investment transactions, in the phase of recovery and resolution (with bail-ins triggering changes of contractual rights), but also in adjudication, namely in banking related ADR schemes. It concludes with a look at the ongoing endeavour to extend the banking union to a capital market and more generally a financial union.



## Islamic Finance *Between religious norms and legal practice*

V. Sagaert and W. Decock (eds.)

ISBN 978-1-78068-619-6

approx. 250 pp. | paperback

2019 | € 45 | \$ 54 | £ 43

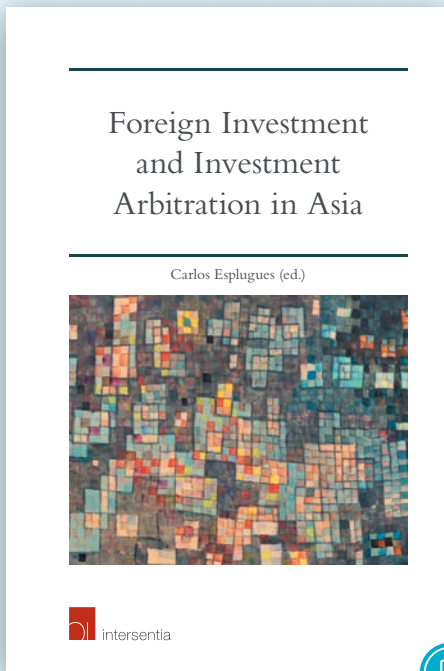
This book explores the tensions between the religious and legal principles of Islamic finance and Islamic banking in practice. It does not limit itself to a legal discussion and presents a truly interdisciplinary and intercultural dialogue between lawyers, theologians, and economists with roots in academia and practice. There is considerable divergence in their evaluation of the status quo and future of Islamic finance.

Contributions cover aspects of Islamic finance in theory and practice. It provides insights into the interplay of religion, ethics and finance covering both the Islamic and Christian traditions that sets the scene for Islamic finance in practice: economic technicalities of Islamic banking services, its regulatory aspects, and the complex legal

arrangements of Islamic finance in non-Muslim-majority countries.

*Islamic Finance* is a truly international collaboration of outstanding scholars and practitioners in their field that reveals the complexities involved in applying religious principles and legal theory to the daily practice of business and finance.





## Foreign Investment and Investment Arbitration in Asia

C. Esplugues (ed.)

ISBN 978-1-78068-713-1  
approx. 365 pp. | hardback  
2019 | € 135 | \$ 162 | £ 128



**Few areas of law seem to excite as much controversy nowadays as the law of foreign investment. It is a fast-growing sector in which elements and ideas in the spheres of law, economics, political science, international relations and other related fields – increasingly environmental rights and human rights too – interact.**



*– From the Introduction by Carlos Esplugues*

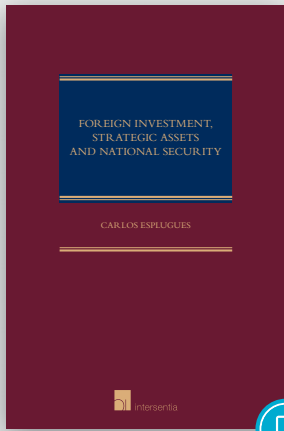


This book brings together foreign investment and investment arbitration in Asia, the fastest growing economic region in the world. It provides a critical analysis of foreign investment, its benefits and the legal regimes of the jurisdictions studied at a time when investor-state disputes are on the rise and investment arbitration is under growing scrutiny. Governments are under greater pressure to balance the promotion of investment with public policy development and interests and calls for a permanent court for investment arbitration are getting louder.

To assess future possibilities, this book takes stock of, brings together and analyses the legal regimes on foreign investment in 12 major Asian jurisdictions, namely China, Hong-Kong, India, Indonesia, Japan, South Korea, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam. These constitute paradigmatic examples of what is happening in the legal framework of Asian foreign investment and the impact that the current system of investment arbitration has in all of them. The analysis shows the existence of changing positions and degrees of openness towards foreign investment in the region, as well as a distinct level of exposure to and involvement in investment arbitration.

Predictably, their situation will change in the near future, at least in relation to investment arbitration. Proposals for reform have already been made and international institutions are working on the development of an alternative to the proceedings of investment arbitration as it is currently constructed and understood. Consequently, the last two chapters of this book are devoted to the analysis of these developments that will most probably affect the existing situation in the region.

CARLOS ESPLUGUES is Professor of Private International Law and International Trade Law at the University of Valencia. He has been President of the Spanish Association of Professor of International Law and International Relations and is currently the Spanish Delegate to the UNCITRAL's WG II – Dispute Settlement.



## Foreign Investment, Strategic Assets and National Security

C. Esplugues

ISBN 978-1-78068-623-3  
xlvii + 534 pp. | hardback  
2018 | € 145 | \$ 174 | £ 138

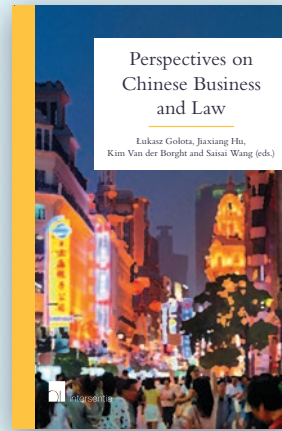


At the time of a paradigm change *Foreign Investment, Strategic Assets and National Security* is a timely analysis of the changing attitude towards foreign investment in major economies, namely the United States of America, the People's Republic of China, Australia, Canada, and Germany, France and the United Kingdom as representatives of the European Union.

Foreign investment has grown steadily for decades and the de-regulation of international trade and investment was a widely accepted trend, particularly in developed countries. Increasingly, however, this development is encountered by opposition. Globalisation and socio-economic effects of mergers and acquisitions of domestic firms by foreign investors receive less support from the general

public. Concerns about national security, protection of new technologies and competitiveness are raised. This leads national and regional legislators to develop new mechanisms to control foreign investments, particularly in light of national security. The widely adopted and traditional ex post approach linked to investment treaties is now enhanced by an increased focus on the phase prior to the actual implementation of the investment.

This legal development and the new screening systems are captured in this book and it is explained how the present paradigm change is affecting the legal rules in practice. It is a must read for everyone working in the field.



## Perspectives on Chinese Business and Law

L. Gołota, J. Hu, K. Van der Borght and S. Wang (eds.)

ISBN 978-1-78068-639-4  
xvi + 374 pp. | paperback  
2018 | € 90 | \$ 108 | £ 86

This book offers different perspectives on China's business and law. It aims to offer an introduction into both theoretical and practical aspects of China's law on foreign related business affairs. This comprises economic and political background information, including China's economic evolution and China-EU trade relations, in addition to more detailed information on selected subject areas important to foreign related business affairs in China, namely commercial arbitration law, contract law, company law, IPR protection, financial law, foreign direct investment law, and also the establishment of overseas branches of Chinese companies in the EU.

*Perspectives on Chinese Business and Law* thus introduces the reader to the current Chinese legislations on foreign related business.

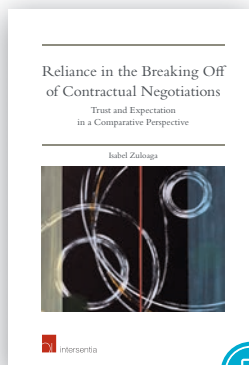
Dr ŁUKASZ GOŁOTA is Assistant Professor at the Institute of International Relations, Warsaw University, Section of Political Economy, Poland.

Dr JIAXIANG HU is Professor of Law at KuGuan Law School, Shanghai Jiao Tong University, China.

Dr KIM VAN DER BORGHT is Professor of International Economic Law & Diplomacy at the Vrije Universiteit Brussel, Belgium.

SAISAI WANG is a Lecturer of Law at the Law School of the Shandong University of Finance and Economics, China and a lawyer at Shandong Jointide Law Firm, China.

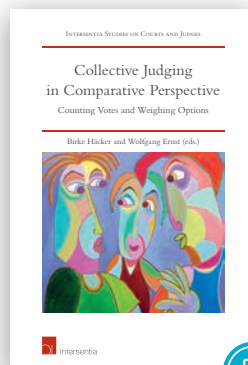
# Comparative Law



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**Reliance in the Breaking Off of Contractual Negotiations**  
*Trust and Expectation in a Comparative Perspective*  
I. Zuloaga

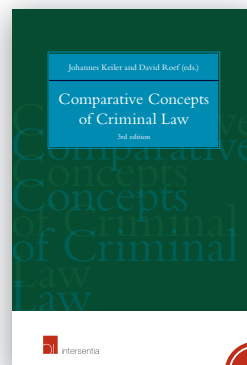
ISBN 978-1-78068-650-9  
approx. 260 pp. | hardback  
2019 | € 69 | \$ 83 | £ 66



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**Collective Judging in Comparative Perspective**  
*Counting Votes and Weighing Options*  
B. Häcker and W. Ernst (eds.)

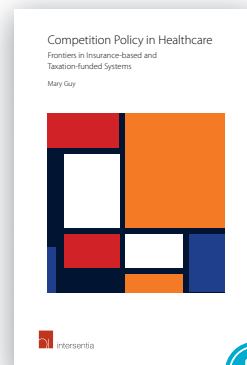
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**Comparative Concepts of Criminal Law**  
*3rd edition*  
J. Keiler and D. Roef (eds.)

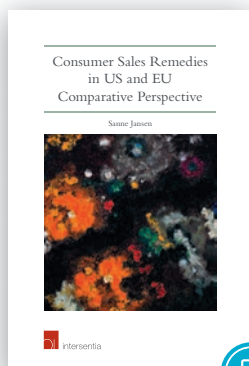
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**Competition Policy in Healthcare**  
*Frontiers in Insurance-based and Taxation-funded Systems*  
M. Guy

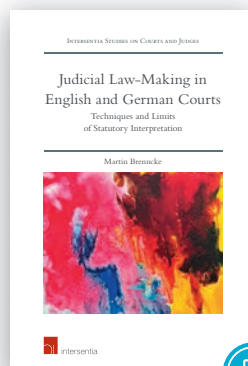
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2019 | € 79 | \$ 95 | £ 75



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**Consumer Sales Remedies in US and EU Comparative Perspective**  
S. Jansen

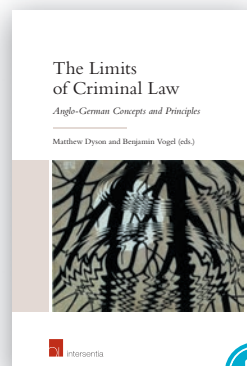
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xviii + 192 pp. | paperback  
2018 | € 59 | \$ 71 | £ 56



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**Judicial Law-Making in English and German Courts**  
*Techniques and Limits of Statutory Interpretation*  
M. Brenncke

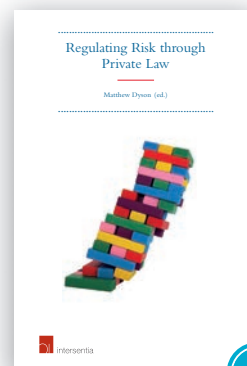
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xxxiv + 438 pp. | hardback  
2018 | € 125 | \$ 150 | £ 119



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**The Limits of Criminal Law**  
*Anglo-German Concepts and Principles*  
M. Dyson and B. Vogel (eds.)

ISBN 978-1-78068-661-5  
xxxii + 598 pp. | hardback  
2018 | € 99 | \$ 119 | £ 94



See page 51

**Regulating Risk through Private Law**  
M. Dyson (eds.)

ISBN 978-1-78068-479-6  
xxxii + 532 pp. | hardback  
2018 | € 95 | \$ 114 | £ 90



## Consumer Sales Remedies in US and EU Comparative Perspective

S. Jansen

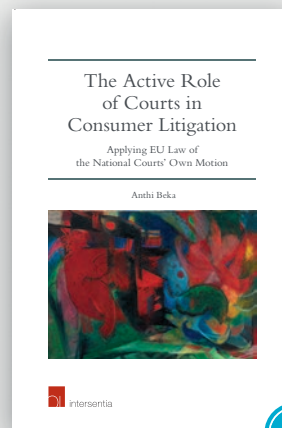
ISBN 978-1-78068-651-6  
xviii + 192 pp. | paperback  
2018 | € 59 | \$ 71 | £ 56



This book is an in-depth study of the US and EU approaches towards consumer sales remedies. It does not limit itself to a mere comparison of the hierarchy of consumer sales remedies but covers the topic comprehensively, also examining (extra)judicial application of remedies and notification duties.

Whereas EU rules prescribe a very strict hierarchy of remedies that are often misunderstood by consumers, and are very favourable towards the remedy of specific performance (or performance in kind), in the US a strong preference for damages can be found. This means that consumers often do not know which remedy they are exactly entitled to or how to invoke it in a correct manner.

Learning from both systems, *Consumer Sales Remedies in US and EU Comparative Perspective* provides a valuable and insightful contribution to the discussion of what the organisation of remedies should look like to best protect consumers. It is written at a time when the EU is considering a 'new' consumer sales Directive, and US scholars are working on the restatement of consumer contract law. It proposes to give consumers a free choice, limited by good faith and proportionality only.



## The Active Role of Courts in Consumer Litigation

*Applying EU Law of the National Courts' Own Motion*  
A. Beka

ISBN 978-1-78068-617-2  
xxxiv + 376 pp. | paperback  
2018 | € 89 | \$ 107 | £ 85

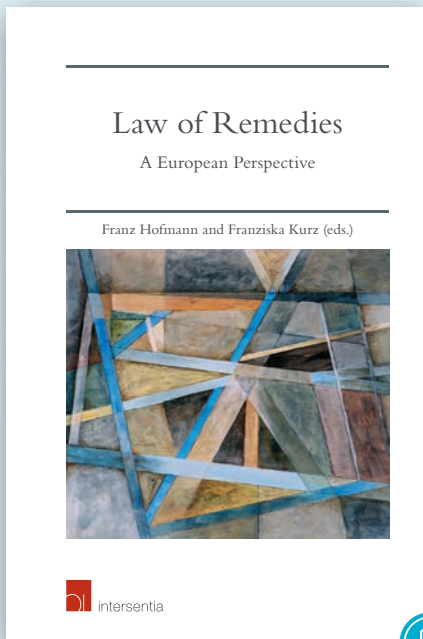


*The Active Role of Courts in Consumer Litigation* traces the emergence of a specific EU Law doctrine governing the role of the national courts in proceedings involving consumers that whilst only established more recently, has already become an important benchmark for effective consumer protection.

According to the 'active consumer court' doctrine, developed in the case-law of the CJEU, national courts are required to raise, of their own motion, mandatory rules of EU consumer contract law, notably those protecting consumers from the use of unfair terms. This results in the strengthening of procedural consumer protection standards in ordinary proceedings but also

in payment order proceedings, consumer insolvency proceedings or repossession proceedings directed against the primary family residence of the mortgage debtor.

The considerations of contractual imbalance will now have to be taken into account in court proceedings leading, where necessary, to the reform of national procedural safeguards to protect the weaker contractual party.



## Law of Remedies

*A European Perspective*

F. Hofmann and F. Kurz (eds.)

ISBN 978-1-78068-785-8

approx. 274 pp. | hardback

2019 | € 89 | \$ 107 | £ 85

“

**This book demonstrates that remedies are more than just an addendum and innovatively presents an emerging research area. As such, it is of great relevance to all lawyers concerned with questions surrounding the enforcement of rights: international academics as well as practitioners.**

”



With the increasing importance of the concept of remedies in European private law, this book focuses on remedies as a distinctive and novel field of European legal research. It considers the common law tradition (England and Wales), as well as the civil law viewpoint (on the example of Germany), making the case for a European law of remedies.

It is argued that ‘remedies’ are an enforcement tool influencing the scope of substantive rights. In doing so, the book analyses different mechanisms of enforcement, including the debate on private versus public enforcement as well as the perspective of criminal law. The enforcement of rights is understood as an intradisciplinary task. Remedial law is, however, distinct from procedural law, as well as from substantive law in a narrow sense.

Subsequent to defining the scope of a law of remedies, this book analyses several underlying principles and common themes. For example, the proportionality test is presented as fundamental principle in European remedial law. The value gained by identifying common ground is e. g. illustrated with respect to damages in European Private Law. Especially in IP law, in turn, the CJEU rulings and secondary European legislation confirm the importance of proportionate

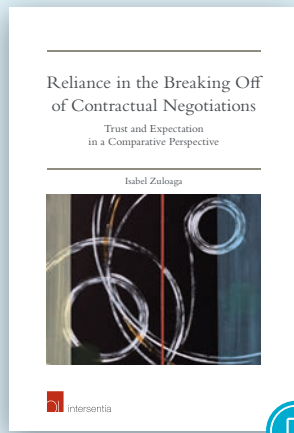
remedies. Moreover, within the law of remedies the function of each remedy can be analysed, and respective interests can be balanced.

Further examples that reveal the importance of a sophisticated enforcement are the CJEU’s recent extension of the concept of communication to the public, the notice-and-take-down-procedure in intermediary liability cases and remedies for non-conformity of digital content or consumers’ remedies in European contract law. In German patent law, the development of grace periods and shareholders’ rights in German corporate law can be analysed from a “remedy” perspective as well.

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FRANZISKA KURZ is a Research Assistant and PhD candidate at the Chair of Private Law, Intellectual Property and Technology Law at the Friedrich-Alexander-University Erlangen-Nuremberg.



## Reliance in the Breaking Off of Contractual Negotiations

*Trust and Expectation in a Comparative Perspective*  
I. Zuloaga

ISBN 978-1-78068-650-9  
approx. 260 pp. | hardback  
2019 | € 69 | \$ 83 | £ 66



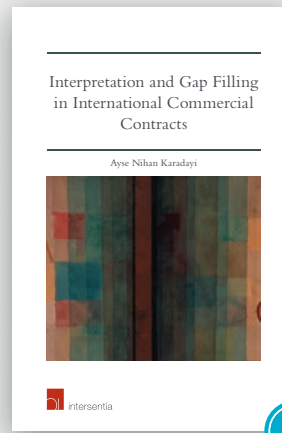
This book explores the theoretical basis of precontractual liability for the unilateral breaking-off of negotiations from a comparative perspective. It argues that, in the selected civil law jurisdictions (Germany, France and Chile), the true basis of this liability is the notion of 'reliance' and it distinguishes two dimensions of reliance: 'trust-based' and 'expectation-based'.

For the selected civil law jurisdictions it can be observed that trust-based reliance merges with the general principle of good faith and that the expectation-dimension emanates from the trust-dimension. Therefore, *Reliance in the Breaking-off of Contractual Negotiations* argues that this innovative theoretical approach to the foundations of pre-contractual liability could have important practical consequences in jurisdictions that do not embrace

a general principle of good faith, such as English law.

If the analysis is shifted from good faith to the notion of reliance, English law could develop a less fragmented approach and encompass cases that are currently devoid of protection. How legal changes could be implemented without establishing a general principle of precontractual liability is explored in the final chapter of the book.

In a constantly evolving world where international trade is ever-growing, precontractual liability, particularly for breaking-off negotiations, is a topic of unceasing development by legal scholars and the judiciary and of increasing importance for practitioners, judges and academics, with significant consequences for negotiating contracts both at a national and at a transnational level.



## Interpretation and Gap Filling in International Commercial Contracts

A. N. Karadayı

ISBN 978-1-78068-808-4  
approx. 250 pp. | paperback  
2019 | € 67 | \$ 80 | £ 64



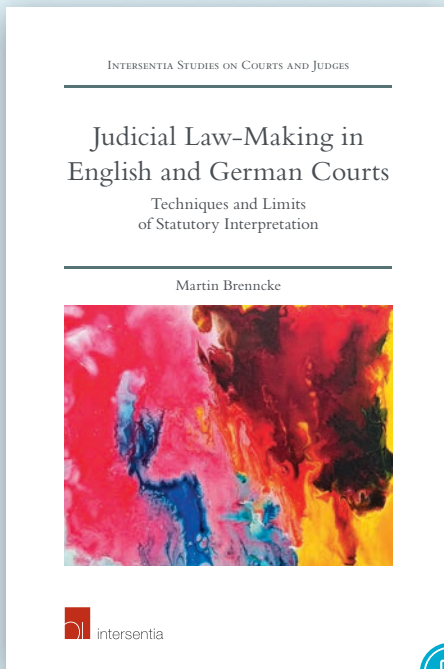
With the growth of cross-border business, the rather important but complex and controversial topic of interpretation and gap filling in international commercial contracts receives more and more attention.

International legal instruments such as CISG, UNIDROIT Principles, PECL and DCFR provide rules in order to interpret international commercial contracts in a uniform way. However, while these instruments may bring together already existing national concepts, they must of course be understood beyond the domestic concepts and approaches as such.

This book is an autonomous comparison across the above-mentioned international legal instruments, with a focus on the rules on interpretation and gap filling that provides

the necessary theoretical background and case law to understand the rules in practice. *Interpretation and Gap Filling in International Commercial Contracts* examines the uniform and harmonised set of rules in their own right; without comparison to national laws, but in their own unique setting of international commercial contracts. It is a practical user guide for both scholars and practitioners.

DR AYŞE NİHAN KARADAYI is a postdoctoral researcher on international contract law at the University of Antwerp, Belgium.



## Judicial Law-Making in English and German Courts

*Techniques and Limits of  
Statutory Interpretation*  
M. Brennecke

ISBN 978-1-78068-269-3  
xxxiv + 438 pp. | hardback  
2018 | € 125 | \$ 150 | £ 119

“

**This book is a valuable study of how two jurisdictions approach the task of statutory interpretation in a complex and multivalent constitutional environment. It is the product of considerable scholarship across the two jurisdictions and a fine sensitivity to the various factors and different theoretical dimensions which inform the interpretative exercise. The exposition is clear. The argument is forceful.**

”

*– From the Foreword by Philip Sales,  
Justice of the Supreme Court, United Kingdom*

How far do contemporary English and German judges go when they interpret national legislation? Where are the limits of statutory interpretation when they venture outside the constraints of the text?

*Judicial Law-Making in English and German Courts* is concerned with the limits of judicial power in a legal system. It addresses the often neglected relationship between statutory interpretation and constitutional law. It traces the practical implications of constitutional principles by exploring the outer limits of what courts regard themselves as authorised to do in the area of statutory interpretation. The book critically analyses, reconstructs and compares judicial law-making in English and German courts from comparative, methodological and constitutional perspectives. It maps the differences and commonalities in both jurisdictions and then offers explanatory accounts for these differences and similarities based on constitutional, institutional, political, historical, cultural and international factors.

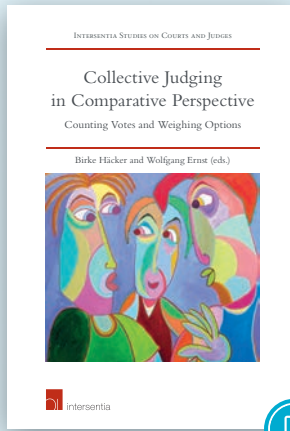
It will be shown that a fundamental unity of statutory interpretation exists in English and German judicial practice in the sphere of rights-consistent and EU-conforming judicial

law-making. The constitutional settings and legal cultures in Germany and the UK have converged in both areas of judicial law-making. However, that is not the case for judicial law-making under conventional canons of statutory interpretation, where significant differences in judicial approach to statutory interpretation remain.

*Judicial Law-Making in English and German Courts* is the first monograph in English that compares English and German legal methodology as applied in judicial practice, appealing to those interested in statutory interpretation, comparative law or legal methodology.

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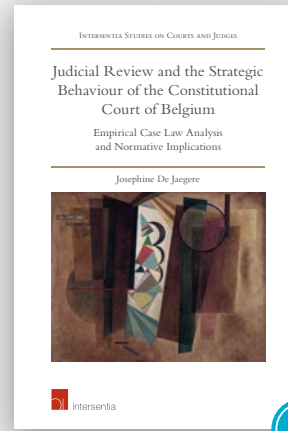
## Collective Judging in Comparative Perspective *Counting Votes and Weighing Options* B. Häcker and W. Ernst (eds.)

ISBN 978-1-78068-624-0  
approx. 380 pp. | hardback  
2019 | € 89 | \$ 107 | £ 85



This book provides unique insights into modern collective judicial decision-making. Courts all over the world sit in panels of several judges, yet the processes by which these judges produce the court's decision differ markedly. Judges from some of the world's most notable judicial bodies, in both the civilian and the common law tradition and from supra-/international courts, share their experiences and reflect on the challenges to which their collective endeavour gives rise. They address matters such as the question of panel constitution, the operation of rapporteur systems, pre- and post-hearing conferences, the hearing procedure itself, the nature of the interaction between the judicial panel and parties' advocates, the extent to which a unitary judgment of the court or at least a single majority judgment is required or deemed

desirable, and how it is ultimately arrived at through different voting mechanisms. They allow the reader a unique inside view into the functioning of modern judicial bodies. The judges' chapters are supplemented by a series of comparative analyses and reflections on the lessons to be learnt from them. *Collective Judging in Comparative Perspective* thus also provides an ideal starting point for thinking about future court design.



## Judicial Review and Strategic Behaviour of the Belgian Constitutional Court *Empirical Case Law Analysis and Normative Implications* J. De Jaegere

ISBN 978-1-78068-694-3  
approx. 406 pp. | hardback  
2019 | € 99 | \$ 119 | £ 94



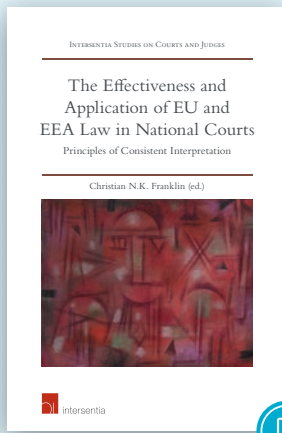
Traditionally, legal scholarship on judicial review is predominantly normative, concentrating on how courts should decide cases and to what extent they should show deference towards the legislative branch. Political scientists, on the other hand, seem more interested in what motivates judges and which factors influence their decisions.

Focusing on the Constitutional Court of Belgium, the approach of this book is to combine normative ideas on how the Court should act with an empirical case law analysis. It explores the extent to which the Court performs as a deliberative institution, while operating within a consensual political system: Does the Court employ deliberative 'judicial good practices'? Is the Court's performance affected by strategic considerations? And if the Court's rulings

reflect strategic actions, does this behaviour correspond to the deliberative expectations weighing on the Court?

The answers to these questions contribute to a fundamental discussion about the appropriate role for judicial institutions in a democratic society. The book shows that the Court's case law is (in part) shaped by strategic considerations. In salient cases, the Court prudently adapts various aspects of its decision in order to stimulate acceptance and compliance. The analyses reflect the fact that the Court is willing to engage in dialogue and that a consensus must be found amid a pluralist group of judges in each case. In addition, by continually taking into account the anticipated behaviour of its audience, the Court protects its institutional legitimacy for future cases.





## **The Effectiveness and Application of EU and EEA Law in National Courts** *Principles of Consistent Interpretation*

C. N. K. Franklin (ed.)

ISBN 978-1-78068-655-4  
xlvii + 600 pp. | hardback  
2018 | € 139 | \$ 167 | £ 132

In the current decentralised system of European Union (EU) and European Economic Area (EEA) law enforcement, national courts play a crucial role in securing the effectiveness and application of the law. A great deal of legal research has been expounded on how the Court of Justice of the European Union (CJEU) and the European Free Trade Association Court (EFTA Court) have established and developed the key mechanism for doing so – namely the principle of consistent interpretation. Yet the principle's scope and limits can only be fully understood if one looks to the final outcome of cases at national level, and how national courts charged with the duty of applying the principle actually do so when faced with such issues in practice.

Adopting an ambitious and consistent approach, contributors from 12 European states therefore examine the reception of the principle through national case-law, focusing on three issues: reception and understanding of the concept, its criteria for application, and its limitations. The individual contributions are further synthesised and compared in an overarching comparative chapter that identifies considerable tension between the goals of uniform and homogenous application of the principles, and a plurality of different approaches at national level. The findings further touch on a broader range of issues, providing the reader with insights into the cooperative dialogue between European and national courts more generally.



## **Cultural Difference and Economic Disadvantage in Regional Human Rights Courts** *An Integrated View*

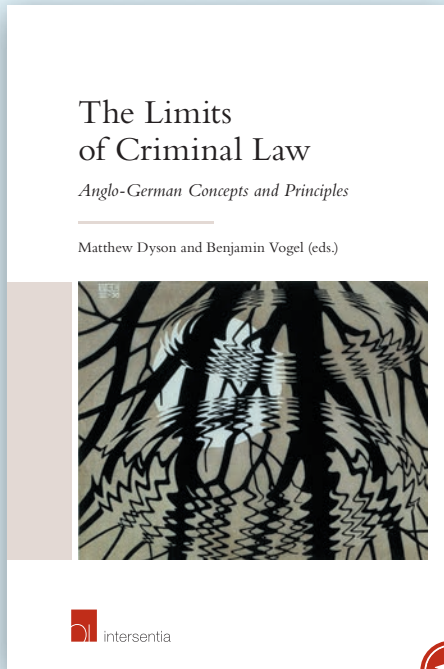
V. David

ISBN 978-1-78068-833-6  
approx. 450 pp. | hardback  
2019 | € 125 | \$ 150 | £ 119

More and more people are turning to human rights courts to seek protection against prejudice, disadvantage or exclusion on account of their cultural and economic particularities. Human rights courts are thus increasingly faced with the difficult task of deciding these cases, which raise a number of complex and contested legal questions. To what extent can courts accommodate cultural diversity, protect all kinds of groups or interfere in socio-economic policy? This book argues that one of the problems encountered in dealing with such cases is the courts' tendency to assess them from a 'compartmentalised' or fragmentary perspective. To counterbalance this

tendency, an innovative, integrated and person-centered approach to adjudicating claims of cultural difference and economic disadvantage is put forward. Drawing on the concepts of intersectionality, indivisibility and normative interdependence, the book presents specific notions and methods for approaching the appreciation of rights holders, harms and norms in a holistic manner. A wide selection of case law from both the European and the Inter-American courts of human rights supports the normative framework developed in this book. The sample mostly includes cases brought by Muslims, Roma, Travelers, indigenous peoples, afro-descendants and people living in poverty.

*Cultural Difference and Economic Disadvantage in Regional Human Rights Courts: An Integrated View* combines legal theory with practical insights in analysing both cultural and economic issues, which are rarely addressed together in human rights legal scholarship.



**The Limits of Criminal Law**  
*Anglo-German Concepts and Principles*  
M. Dyson and B. Vogel (eds.)

ISBN 978-1-78068-661-5  
xxxii + 598 pp. | hardback  
2018 | € 99 | \$ 119 | £ 94

“

The evidence-led approach of *The Limits of Criminal Law* is particularly important in an ever more interconnected world in which different perceptions of criminal law can lead to profound misunderstandings between countries.

”



*The Limits of Criminal Law* shines light from the outer edges of the criminal law in to better understand its core. From a framework of core principles, different borders are explored to test out where criminal law's normative or performative limits are, in particular, the borders of crime with tort, non-criminal enforcement, medical law, business regulation, administrative sanctions, counter-terrorism and intelligence law.

The volume carefully juxtaposes and compares English and German law on each of these borders, drawing out underlying concepts and key comparative lessons. Each country offers insights beyond their own laws. This double perspective sharpens readers' critical understanding of the criminal law, and at the same time produces insights that go beyond the perspective of one legal tradition.

The book does not promote a single normative view of the limits of criminal law, but builds a detailed picture of the limits that exist now and why they exist now. This evidence-led approach is particularly important in an ever more interconnected world in which different perceptions of criminal law can lead to profound misunderstandings between countries.

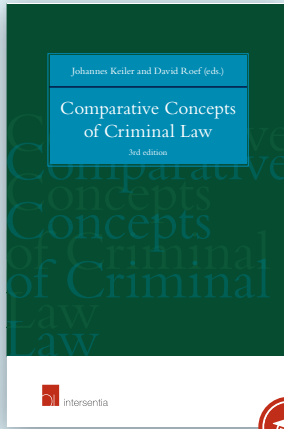
*The Limits of Criminal Law* builds picture of what shapes the criminal law, where those limits come from, and what might motivate legal systems to strain, ignore or strengthen those limits. Some of the most interesting insights come out of the comparison between German systematic approach and doctrinal limits with English law's focus on process and judgment on individual questions.

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BENJAMIN VOGEL is Senior Research Fellow at the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany. He is Assistant Editor of the Foreign Review of the Zeitschrift für die gesamte Straf-rechtswissenschaft.

# Criminal Law and Procedure



## Comparative Concepts of Criminal Law

3rd edition

J. Keiler and D. Roef (eds.)

ISBN 978-1-78068-685-1  
approx. 375 pp. | paperback  
2019 | € 89 | \$ 107 | £ 85

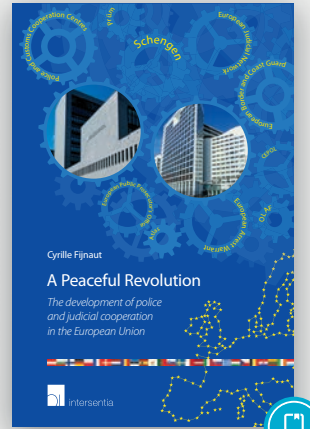


*Comparative Concepts of Criminal Law* is unique in the sense that it introduces the reader to the fundamental concepts and rules of substantive criminal law in a comparative way and not just to the criminal law system of one specific jurisdiction. Compared with other fields of law, like contract and property law, comparative research into the so-called general part of criminal law is quite a recent phenomenon within academia. The increasing 'Europeanisation' of criminal law and policy makes such a comparative approach even more necessary.

This handbook therefore fills a legal educational gap by exploring basic concepts of substantive criminal law in three major European legal systems: the common law system of England and

Wales and the civil law systems of Germany and the Netherlands. Each chapter focuses on a specific concept or doctrine that is necessary to determine criminal liability (e.g. actus reus, mens rea, defences, inchoate offences). Throughout the book the authors also highlight and discuss some recent legislative and judicial developments that broaden the scope of criminal liability in our modern culture of control.

This book is not only invaluable for students, but also for legal practitioners who want to broaden their knowledge of criminal law.



## A Peaceful Revolution

*The Development of Police and Judicial Cooperation in the European Union*

C. Fijnaut

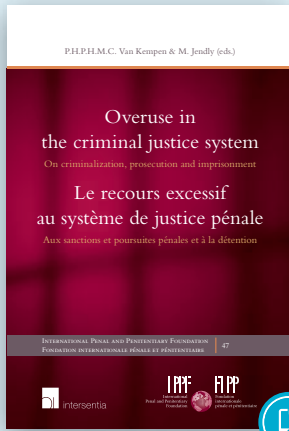
ISBN 978-1-78068-697-4  
approx. 250 pp. | paperback  
2019 | € 65 | \$ 78 | £ 62



The debate surrounding police and judicial cooperation in the European Union can be criticised for focusing too much on certain forms of cooperation or on specific cases. As a result, a thorough overview of what has been achieved in this area since the Maastricht Treaty's entry into force in November 1993 is lacking. In contrast to the disjointed and mostly secret cooperation between police and judicial services in Europe prior to 1993, the current regime has established a coherent and transparent collaboration within the EU that can only be described as revolutionary.

This book discusses this peaceful revolution in light of the action programmes (the Brussels Programme, the Tampere Programme, the Hague Programme and the Stockholm Programme) which were

drafted in concurrence with all major changes to the constitutional relations within the European Union: the Maastricht Treaty, the Amsterdam Treaty, the Nice Treaty, the Rome Treaty and the Lisbon Treaty. This programmatic approach makes it possible to present in a clear manner the imposing array of police and judicial agencies, facilities and networks (Europol, Schengen Information System, Eurojust, European Arrest Warrant, etc.) created through democratic processes with the aim of ensuring the security of the citizens of the European Union. In particular, the problems concerning the control of internal and external borders and with respect to the containment of terrorism demonstrate that this system urgently needs to be reinforced.



## Overuse in the Criminal Justice System

*On criminalization, prosecution and imprisonment*  
P. H. van Kempen and M. Jendly (eds.)

*International Penal and Penitentiary Foundation, Volume 47*  
ISBN 978-1-78068-822-0  
approx. 450 pp. | hardback  
2019 | € 99 | \$ 119 | £ 94

The criminal justice system encompasses the most severe instrument at the state's disposal in times of peace. For this and many other reasons, overuse of that system is a serious matter.

It may present itself in different forms. Overuse of criminalization may mean that too much conduct is criminalized without necessity. Overuse of prosecution may present itself if too many violations of criminal offences are prosecuted, while in certain individual cases or specific categories of cases it would be more effective, fairer, more efficient or otherwise desirable to refrain from prosecution and/or to apply alternative means, such as negotiating justice or administrative fines. Finally, the criminal justice system can be overused through the application and execution of

too many or too severe prison sentences.

All these forms of overuse are discussed in this volume. It contains one introductory chapter, seven thematic chapters, and sixteen chapters on individual countries around the world. Themes discussed in these chapters are, among others, the principle that criminal law is and must be regarded as a so-called *ultima ratio* or *ultimum remedium*, the relevant human rights framework, worldwide statistics, and legal and practical restraints as well as possibilities to solve overuse.

Containing an extensive collection of expert knowledge, this volume intends to expose legal possibilities, good practices and the many challenges that lie ahead when attempting to prevent overuse in the criminal justice system.



## Legality in Europe

*On the principle nullum crimen, nulla poena sine lege in EU law and under the ECHR*  
M. Timmerman

ISBN 978-1-78068-304-1  
xii + 350 pp. | paperback  
2018 | € 85 | \$ 102 | £ 81

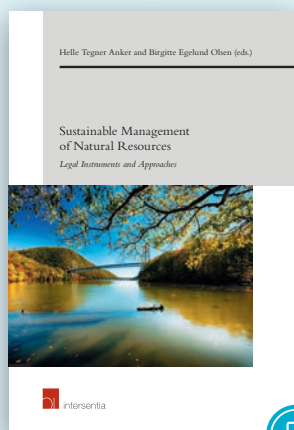
Through the establishment of EU criminal law, EU actors have come to influence the definition and interpretation of domestic crimes and penalties. Both the EU legislature and the CJEU define and interpret provisions of EU law with relevance for the determination of criminal liability and the prescription of applicable penalties in the law of the Member States.

This influence on substantive criminal law raises questions about the limits to these legislative and interpretive activities, both at the EU level and at the level of the Member States. Since requirements for the definition, interpretation, and application of substantive criminal law are traditionally provided by the principle *nullum crimen, nulla poena sine lege* (ie the legality principle), the functioning of this principle in EU criminal law merits investigation.

The author examines and compares the actual constructions of the supranational European legality principles; ie the legality principles protected under the ECHR and by EU law. He ascertains that, while under the ECHR, the legality principle only requires the protection of a rather minimal standard of legal certainty, such a minimum standard might not be appropriate under EU law.

The author argues that, instead of merely functioning as a prohibition on arbitrariness, the EU legality principle should ensure a level of legal certainty, which is closer to the maximum predictability of the consequences of certain acts. Furthermore, it should be construed more consistently and on the basis of a clear conceptual framework, while its general conformity with the ECHR minimum standard should be made more apparent.

# Environmental Law, Energy Law and Natural Resources



## Sustainable Management of Natural Resources Legal Instruments and Approaches

H. T. Anker and  
B. E. Olsen (eds.)

*European Environmental Law  
Forum, Volume 5*  
ISBN 978-1-78068-759-9  
x + 258 pp. | paperback  
2018 | € 65 | \$ 78 | £ 62

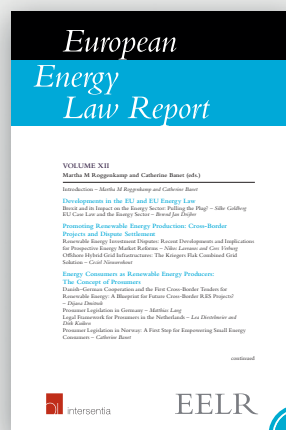


The European Environmental Law Forum (EELF) is a non-profit initiative established by environmental law scholars and practitioners from across Europe aiming to support intellectual exchange on the development and implementation of international, European and national environmental law in Europe. One of the activities of the EELF is the organisation of an annual conference.

The fifth EELF Conference dedicated to ‘Sustainable Management of Natural Resources – Legal Instruments and Approaches’ was held in Copenhagen from the 30th of August to the 1st of September 2017 at the Faculty of Science, University of Copenhagen, in collaboration with the Department of Law, Aarhus University.

This book is a collection of peer reviewed contributions addressing various

legal aspects of sustainable management of natural resources. Natural resources are in this book understood in broad terms encompassing biodiversity, water, air and soil, as well as raw materials. Based on the contributions, it can be asserted that despite many efforts there is still a long way to go in order to achieve sustainable management of natural resources. Making ecosystem integrity ultimately the bottom-line for sustainable development requires not only dedication in the design and coherence of (environmental) legislation at international, EU and national level, but also a strong commitment to the implementation and enforcement of the legislation. Thus, it is necessary to carefully consider how different legal instruments and approaches may pave the way for the sustainable management of natural resources.



## European Energy Law Report XII

M. M. Roggenkamp and  
C. Banet (eds.)

*European Energy Law Reports*  
ISBN 978-1-78068-672-1  
xxii + 292 pp. | paperback  
2018 | € 155 | \$ 186 | £ 147

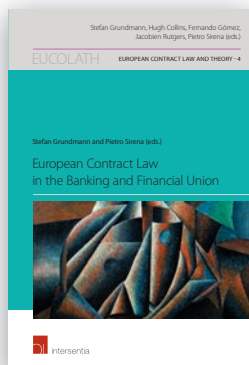


The European Energy Law Reports are an initiative taken by the organisers of the European Energy Law Seminar which has been organised on an annual basis since 1989 at Noordwijk aan Zee in the Netherlands. The aim of this seminar is to present an overview of the most important legal developments in the field of International, EU and national energy and climate law. Whereas the first seminars concentrated on the developments at EC level, which were the results of the establishment of an Internal Energy Market, the focus has now gradually switched to the developments at the national level following the implementation of the EU Directives with regard to the internal electricity and gas markets. This approach can also be found in these reports.

This volume includes chapters on “Developments in EU Energy Law”, “Renewable Energy: Cross-border Projects and Dispute Settlement”, “Capacity Reserve Mechanism”, “Prosumers”, and “New Developments in the European Gas Market”.

MARTHA M. ROGGENKAMP is Professor of Energy Law and Director of the Groningen Centre of Energy Law at the University of Groningen, the Netherlands.

CATHERINE BANET is Associate Professor at the Scandinavian Institute of Maritime Law at the University of Oslo, Norway.



See page 8

## European Contract Law in the Banking and Financial Union

S. Grundmann and P. Sirena (eds.)

*European Contract Law and Theory,*

*Volume 4*

ISBN 978-1-78068-662-2

approx. 270 pp. | paperback

2019 | € 79 | \$ 95 | £ 75



See page 19

## A Peaceful Revolution

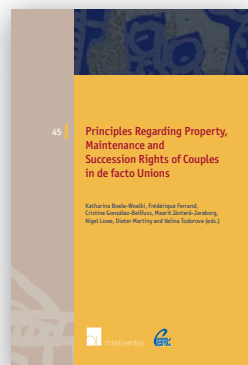
*The Development of Police and Judicial Cooperation in the European Union*

C. Fijnaut

ISBN 978-1-78068-697-4

approx. 250 pp. | paperback

2019 | € 65 | \$ 78 | £ 62



See page 27

## Principles Regarding Property, Maintenance and Succession Rights of Couples in de facto Unions

K. Boele-Woelki et al. (eds.)

*European Family Law*

ISBN 978-1-78068-788-9

approx. 280 pp. | paperback

2019 | € 70 | \$ 84 | £ 67



See page 28

## Plurality and Diversity of Family Relations in Europe

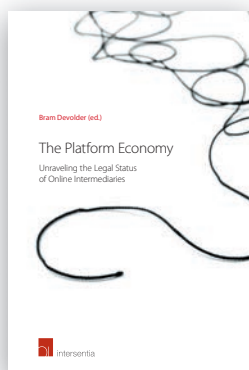
K. Boele-Woelki

*European Family Law*

ISBN 978-1-78068-817-6

approx. 381 pp. | paperback

2019 | € 79 | \$ 95 | £ 75



See page 39

## The Platform Economy

*Unraveling the Legal Status of Online Intermediaries*

B. Devolder (ed.)

ISBN 978-1-78068-634-9

approx. 330 pp. | hardback

2019 | € 95 | \$ 114 | £ 90



See page 34

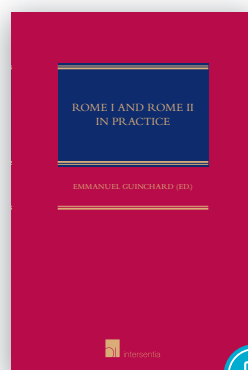
## Enforcement of Intellectual Property Rights in the EU Member States

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2019 | € 205 | \$ 246 | £ 195



See page 47

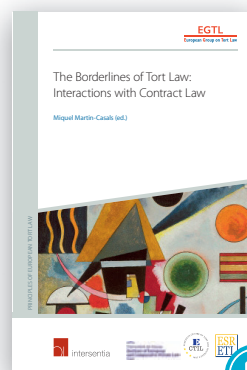
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E. Guinchard (ed.)

ISBN 978-1-78068-671-4

approx. 600 pp. | hardback

2019 | € 145 | \$ 174 | £ 138



See page 50

## The Borderlines of Tort Law: Interactions with Contract Law

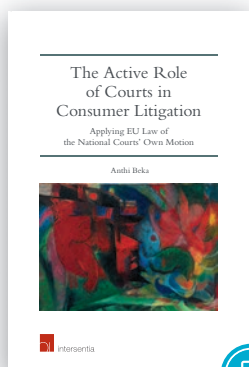
M. Martí-Casals (eds.)

*Principles of European Tort Law*

ISBN 978-1-78068-248-8

approx. 500 pp. | paperback

2019 | € 85 | \$ 102 | £ 81



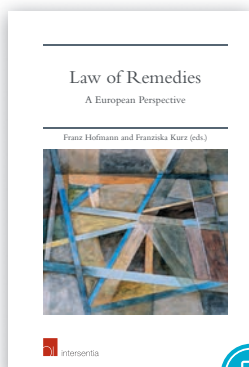
See page 12

## The Active Role of Courts in Consumer Litigation

*Applying EU Law of the National Courts' Own Motion*

A. Beka

ISBN 978-1-78068-617-2  
xxxiv + 376 pp. | paperback  
2018 | € 89 | \$ 107 | £ 85



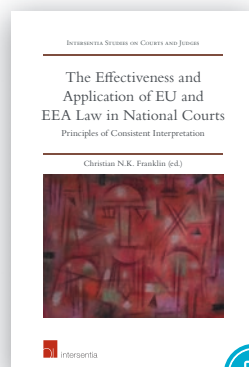
See page 13

## Law of Remedies

*A European Perspective*

F. Hofmann and F. Kurz (eds.)

ISBN 978-1-78068-785-8  
approx. 274 pp. | hardback  
2018 | € 89 | \$ 107 | £ 85



See page 17

## The Effectiveness and Application of EU and EEA Law in National Courts

*Principles of Consistent Interpretation*

C. N. K. Franklin (ed.)

ISBN 978-1-78068-655-4  
xlvii + 600 pp. | hardback  
2018 | € 139 | \$ 167 | £ 132



See page 21

## European Energy Law Report XII

M. M. Roggenkamp and C. Banet (eds.)

ISBN 978-1-78068-672-1  
xxii + 292 pp. | paperback  
2018 | € 155 | \$ 186 | £ 147

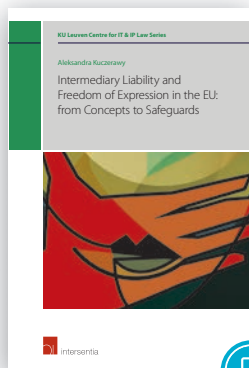


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## European Libraries and the Internet: Copyright and Extended Collective Licences

R. Tryggvadóttir

*KU Leuven Centre for IT & IP Law Series, Volume 2*  
ISBN 978-1-78068-674-5  
xxiii + 448 pp. | hardback  
2018 | € 105 | \$ 126 | £ 100



See page 41

## Intermediary Liability and Freedom of Expression in the EU: from Concepts to Safeguards

A. Kuczerawy

*KU Leuven Centre for IT & IP Law Series, Volume 3*  
ISBN 978-1-78068-714-8  
xii + 425 pp. | hardback  
2018 | € 105 | \$ 126 | £ 100

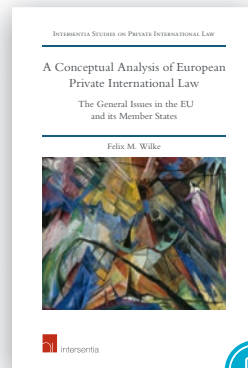


See page 52

## The European Convention on Human Rights as an Instrument of Tort Law

S. Somers

ISBN 978-1-78068-683-7  
xlvii + 372 pp. | hardback  
2018 | € 95 | \$ 114 | £ 90



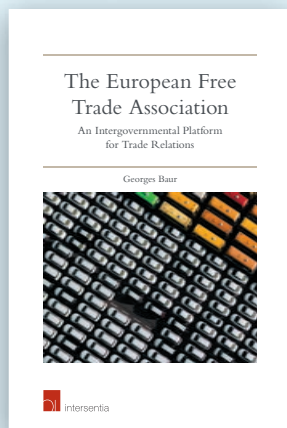
See page 46

## A Conceptual Analysis of European Private International Law

*The General Issues in the EU and its Member States*

F. M. Wilke

ISBN 978-1-78068-690-5  
approx. 360 pp. | hardback  
2019 | € 89 | \$ 107 | £ 85



**The European Free Trade Association**  
*An Intergovernmental Platform for Trade Relations*  
 G. Baur

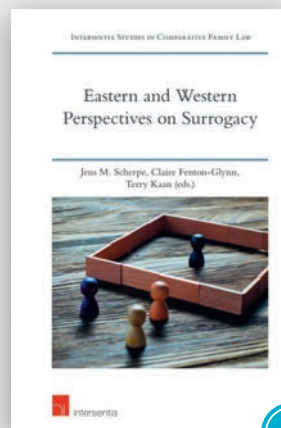
ISBN 978-1-78068-656-1  
 approx. 180 pp. | paperback  
 2019 | € 59 | \$ 71 | £ 56

This book shall be an introduction into the European Free Trade Association (EFTA) as an international organization and, inter alia, as a platform for its member states' relations with the EU and for jointly negotiated Free Trade Agreements. EFTA – originally set up by the UK – is an example of how countries that do not want to be members of the EU can still have close links with it.

EFTA is a loose intragovernmental association of some economically highly specialised, small and wealthy Western European small states which have, until now, decided not to join the European Union (EU). Essentially it is the platform for Iceland, Liechtenstein, Norway and Switzerland to coordinate their free trade policies as far as possible. Iceland, Liechtenstein and Norway also use EFTA, in

particular its Secretariat, to manage their membership of the European Economic Area (EEA) and to adopt relevant legislation into the Agreement. Particularly in the context of Brexit it should also be noted that there are elements of the relations between the four EFTA States and the EU which are not necessarily based on either the EEA Agreement or the EU-Swiss Agreements.

Until recently, EFTA was considered an outdated model. However, since Brexit interest in EFTA has increased. This book is not about Brexit, rather it will correct certain misconceptions about EFTA and provide a clear overview on what EFTA is: a platform for the economic relations between its member states; a platform for its member states' free trade policy and a platform for its member states' relations with the EU.



**Eastern and Western Perspectives on Surrogacy**

J. M. Scherpe, C. Fenton-Glynn and T. Kaan (eds.)

ISBN 978-1-78068-652-3  
 approx. 450 pp. | paperback  
 2019 | € 99 | \$ 119 | £ 94

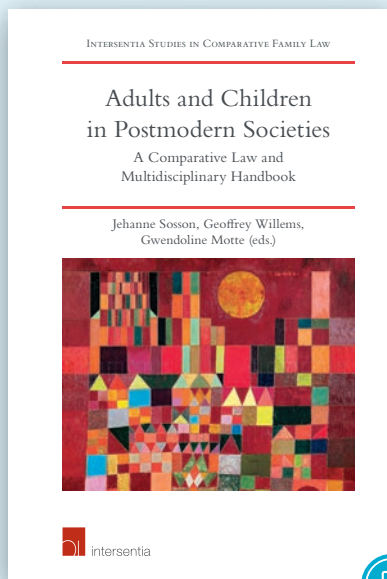


Over the past ten years, a convergence of scientific, demographic, legal and social developments has led to a significant influx of cases of international surrogacy. Lawyers, philosophers and health care professionals have struggled to formulate a framework to ensure the protection of surrogate mothers from exploitation, whilst combatting the vulnerability of commissioning parents to agencies and intermediaries, and providing children born as a result of this practice with certainty regarding their identity, status, and nationality.

The transnational nature of the issues raised in relation to international surrogacy agreements means that individual states have struggled to take decisive action, and there remains a myriad of different responses to this issue. This book brings together experts from Eastern

and Western backgrounds, to consider the way in which different jurisdictions have responded to surrogacy, both within their own borders, and when an international agreement takes place involving one of their citizens. Each chapter includes a discussion of the laws concerning the establishment and contestation of legal parentage through surrogacy under domestic law; the rules and laws concerning surrogacy arrangements on a domestic level; and approaches to recognition of legal parenthood acquired through surrogacy in other jurisdictions. In addition, the chapters consider the socio-economic context of surrogacy in the chosen jurisdictions, through questions concerning the profile of surrogate mothers and commissioning parents, the involvement of intermediaries, and the nature of the interactions between these parties.





## Adults and Children in Postmodern Societies

*A Comparative Law and Multidisciplinary Handbook*

J. Sosson, G. Willems and G. Motte (eds.)

ISBN 978-1-78068-597-7

approx. 900 pp. | hardback

2019 | € 139 | \$ 167 | £ 132

“

**The legal perspective of the national reports is complemented by interdisciplinary perspectives from experts in history, anthropology, psychology and philosophy, making this book a unique and essential source for anyone working in the field.**

”

*Adults and Children in Postmodern Societies* provides a critical analysis of the different ways in which the law can recognise and protect relationships between adults and children in postmodern societies which are characterised by increasingly diverse family configurations. The book focuses of six fundamental questions:

- How does the law deal with the changes occurring in what is still referred to as the ‘traditional’ family, such as for example anonymous childbirth, paternity disputes, shared custody?
- How does the law recognise and protect families conceived with help of assisted reproduction techniques, such as IVF, surrogacy, anonymous or non-anonymous gamete donation?
- How does the law recognise and protect families bound by de facto social or emotional ties, particularly in context of step-parents and step-children or foster families?
- Which relationships between adults and children should be recognised and protected by law? Should there be restrictions based on couple status, gender or number?
- If relationships between adults and children should be protected, which legal tools should be used: legal rules, judicial discretion or contractual freedom?
- Which common analytical framework could be used to understand – and face – the legal challenges raised by the transformations of family relationships?

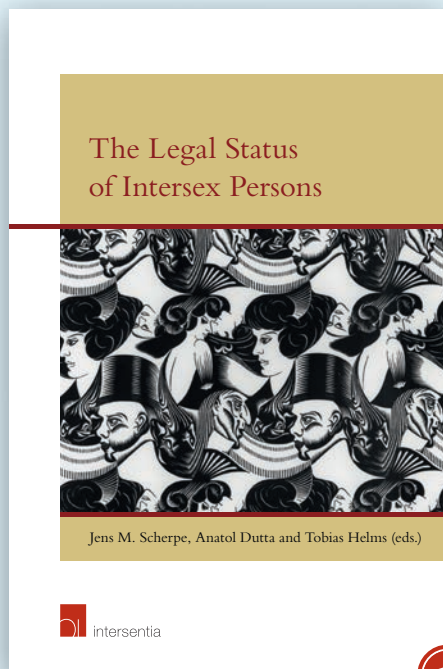
These questions are addressed in-depth by an international team of distinguished family law experts of 18 different jurisdictions (Algeria, Argentina, Australia, Belgium, Canada, Democratic Republic of the Congo, England and Wales, France, Germany, Ireland, Italy, Japan, the Netherlands, Romania, Spain, Switzerland, Sweden and the USA), covering the current state of affairs, foreseeable legal developments and thought-provoking reflections. The legal perspective of the national reports is complemented by interdisciplinary perspectives from experts in history, anthropology, psychology and philosophy, making this book a unique and essential source for anyone working in the field.

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JEHANNE SOSSON is a professor at the Université catholique de Louvain.

GEOFFREY WILLEMS is a professor at the Université catholique de Louvain.

GWENDOLINE MOTTE is a teaching and research assistant at the Université catholique de Louvain.



## The Legal Status of Intersex Persons

J. M. Scherpe, A. Dutta and T. Helms (eds.)

ISBN 978-1-78068-475-8  
xii + 536 pp. | paperback  
2018 | € 69 | \$ 83 | £ 66

“

**This book looks at law reform taking place around the world, with diverse perspectives from relevant fields, to provide the reader with a comprehensive analysis of the legal status of intersex persons and related issues.**

”

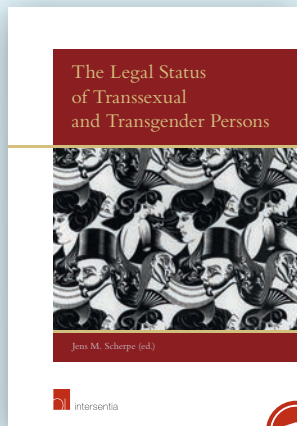


*The Legal Status of Intersex Persons* provides a basis for discussion regarding all legal aspects concerning persons born with sex characteristics that do not belong strictly to male or female categories, or that belong to both at the same time. It contains contributions from medical, psychological and theological perspectives, as well as national legal perspectives from Germany, Australia, India, the Netherlands, Columbia, Sweden, France and the USA. It explores international human rights aspects of intersex legal recognition and also features chapters on private international law and legal history.

The book is a timely one. Until very recently, the legal gender of a person – both at birth and later in life – in virtually all jurisdictions had to be recorded as either male or female; the laws simply did not allow any other option, and, in many cases, changing the recorded gender was difficult or impossible. However, there are many cases where this gender binary is unable to capture the reality of a person's physical presentation and/or perception of self. Consequently, this gender binary is increasingly being challenged and several jurisdictions have begun to reform their gender status laws.

For example, in 2013 Germany became the first Western jurisdiction in modern times to introduce legislation allowing a person's gender to be recorded as 'indeterminate' at birth and thus give them a legal gender status other than male or female for all intents and purposes. However, this legislation has proved problematic in many ways. In 2017 the German Constitutional Court then held that these rules were in violation of the German constitution as they only allowed a non-recognition, as opposed to a positive recognition of a gender other than male or female, and mandated law reform. Similarly, the Austria Constitutional Court held in June 2018 that current civil status laws had to be interpreted to allow registration of alternative gender identities. Therefore two European jurisdictions will now have legal gender recognition beyond the binary.

This book looks at law reform taking place around the world, with diverse perspectives from relevant fields, to provide the reader with a comprehensive analysis of the legal status of intersex persons and related issues.



## The Legal Status of Transsexual and Transgender Persons

J.M. Scherpe (ed.)

ISBN 978-1-78068-196-2  
xiv + 664 pp. | paperback  
2015 | € 89 | \$ 107 | £ 85



## The Legal Status of Transsexual and Transgender Persons

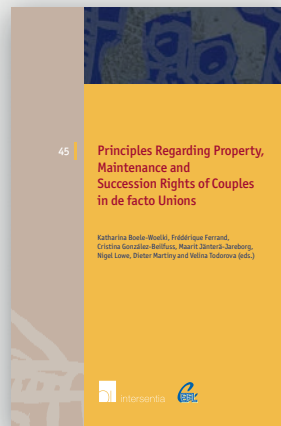
J.M. Scherpe (ed.)

ISBN 978-1-78068-196-2  
xiv + 664 pp. | paperback  
2015 | € 89 | \$ 107 | £ 85

The need to allow a change of legal sex/gender in certain cases is no longer disputed in most jurisdictions, and for European countries there is no question as to whether such a change should be allowed after the decision of the European Court of Human Rights in *Goodwin v. United Kingdom* (Application no. 28957/95). The question has therefore shifted to what the requirements for such a change of the legal sex/gender should be. Many jurisdictions have legislated or developed an administrative approach to changing sex/gender, but the requirements differ significantly from jurisdiction to jurisdiction.

The book also examines questions that are thus far under-researched, namely what the full legal consequences of a change of legal sex/gender should be, for example with regard to existing legal relationships such as marriages and registered partnerships, but also concerning children and parentage.

*The Legal Status of Transsexual and Transgender Persons* is the result of an international research project, including not only national reports from 14 European and non-European jurisdictions but also two chapters that look at legal sex/gender changes from a Christian perspective and one chapter from a medical-psychological perspective. The final comparative chapter compares and contrasts the different approaches and requirements and makes recommendations for best practice and law reform.



## Principles Regarding Property, Maintenance and Succession Rights of Couples in de facto Unions

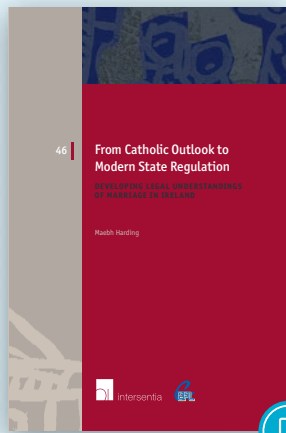
K. Boele-Woelki, F. Ferrand, C. González-Beilfuss, M. Jänterä-Jareborg, N. Lowe, D. Martiny and V. Todorova (eds.)

*European Family Law*  
ISBN 978-1-78068-788-9  
approx. 280 pp. | paperback  
2019 | € 70 | \$ 84 | £ 67

A book series dedicated to the harmonisation and unification of family and succession law in Europe. The series includes comparative legal studies and materials as well as studies on the effects of international and European law making within the national legal systems in Europe. The books are published in English, French or German under the auspices of the Organising Committee of the Commission on European Family Law (CEFL).

The Principles of European Family Law drafted by the CEFL are aimed at contributing to the harmonisation of family law in Europe. The first sets of Principles cover Divorce and Maintenance Between Former Spouses, Parental Responsibilities and Property Relations between Spouses respectively.

This book focuses on *Principles Regarding Property, Maintenance and Succession Rights of Couples in de facto Unions*. The CEFL has developed a comprehensive and original set of rules which may be a source of inspiration for legislating the rights and duties of couples who have not formalised their relationship. In their provisions on specific issues, the Principles opt for workable solutions which aim to avoid unnecessary hardship and disputes. The Principles should be used as a frame of reference by policy makers and legislators.



## From Catholic Outlook to Modern State Regulation

*Developing Legal Understandings of Marriage in Ireland*

M. Harding

*European Family Law*  
ISBN 978-1-78068-615-8  
approx. 220 pp. | paperback  
2019 | € 62 | \$ 74 | £ 59

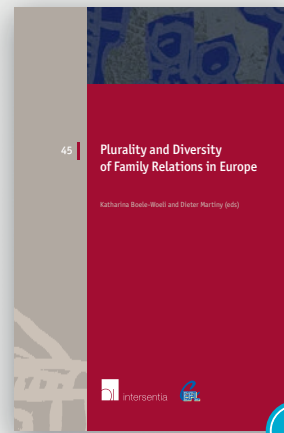


This book focuses on the development of marriage law in Ireland from 1937 to the present day, examining the relevant historical legal background to changes in the law in the 20th and early 21st centuries. It draws on legal sources and historical and empirical evidence about the reality of family life in Ireland, to raise broader questions about the appropriate role of law in establishing, preserving and developing inclusive social understandings of marriage. The impact of accurate empirical data about family life, external international influence and sustained activism as drivers in achieving meaningful social change is also evaluated.

This original viewpoint highlights the initial ideological importance of marriage regulation in Ireland and its connection to national identity in a Catholic country.

Historically, asymmetric social rules concerning marriage allowed those in power to favour particular religious groups; first the Protestant elite and then the Roman Catholic majority. Protecting a Catholic idea of marriage was an important consideration when drafting the founding documents of the Irish state.

The history and development of Irish marriage law, since the founding of the Irish state, has received little critical academic attention and this work makes a significant contribution to the fields of European family law and legal history. The book is timely and resonates not only with recent critical work about the development of Irish family law but also with broader debates about marriage and the role of state regulation that are currently taking place in numerous jurisdictions around the world.



## Plurality and Diversity of Family Relations in Europe

K. Boele-Woelki and D. Martiny (eds.)

*European Family Law*  
ISBN 978-1-78068-817-6  
approx. 381 pp. | paperback  
2019 | € 79 | \$ 95 | £ 75

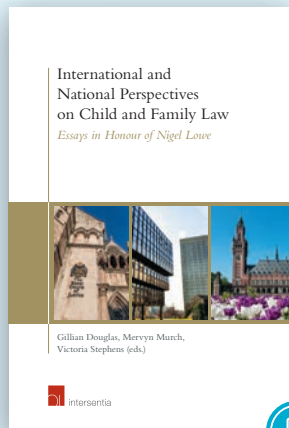


This volume contains the contributions delivered at CEFL's sixth international conference, which focused on comparative and international family law in Europe in their respective cultural contexts. Inter alia in this book CEFL experts and other legal scholars examine subjects such as family law, sociology, migration and women's fundamental rights, as well as the developing concept of parentage and the role of children in families.

The conference, and in turn the book, aims to enhance the exchange of ideas and arguments on comparative and international family law in Europe.

Katharina Boele-Woelki is the President of Bucerius Law School and Claussen Simon Foundation Professor of Comparative Law.

Dieter Martiny is emeritus Professor at Europa-Universität Viadrina in Frankfurt/Oder and was a guest professor at the Max Planck Institute for foreign and international private law in Hamburg.



## International and National Perspectives on Child and Family Law

*Essays in Honour of Nigel Lowe*  
G. Douglas, M. Murch and V. Stephens (eds.)

ISBN 978-1-78068-641-7  
xxviii + 360 pp. | hardback  
2018 | € 73 | \$ 88 | £ 69

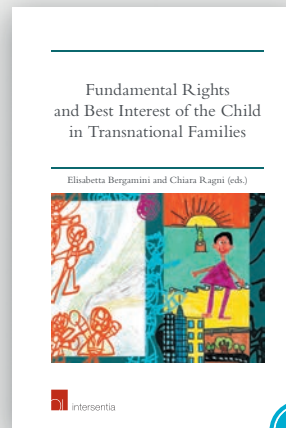


Professor Nigel Lowe is the leading expert in international family law, with a world-wide reputation for his work in child law, international family relocation and child abduction. His career, spanning more than 40 years, has produced a huge body of literature and is internationally influential and of particular importance within Europe.

A collaborative effort by members of the judiciary, practitioners and fellow academics from both the United Kingdom and other jurisdictions *International and National Perspectives on Child and Family Law* is a recognition of the impact of his work. It covers key issues in international child and family law including those in which Professor Lowe's work has been particularly influential, namely adoption, wardship, parental responsibility,

children's rights, international family relocation and the 1980 Hague Convention on International Child Abduction.

International and transnational family law has been a developing field of study and a growing area of legal practice over recent years. At a time of great international change and with the complications and implications of Brexit, this book covers many of the key issues in family law today and provides the reader with an exploration of possible future developments in the field.



## Fundamental Rights and Best Interest of the Child in Transnational Families

E. Bergamini and C. Ragni (eds.)

ISBN 978-1-78068-665-3  
approx. 380 pp. | hardback  
2019 | € 99 | \$ 119 | £ 94



Families in Europe are increasingly shaped by the mobility of persons and multicultural backgrounds. This book is focusing on the protection of children in cross-border situations. What are the fundamental rights of children in transnational families, what is in their 'best interest', and how can their rights be safeguarded? There is much controversy on these rights and the accompanying uncertainty has resulted in considerable practical difficulties for those trying to implement them.

In order to provide a clearer scope and insights into the nature of children's fundamental rights and their best interests, this book examines solutions provided by both EU and international law to the questions raised by the increasing incidence of transnational families as regards the protection of minors. It covers both

substantive and conflict-of-laws rules. Differences in the substantive family laws of Member States still prevent an effective protection of the child or its family unit. This includes cases of migration, asylum, forced marriage, *kafalah*, but also rainbow families. Further, the role of human rights (mutual recognition of status and surrogacy agreements, adoption) and procedural rights (child abduction, Brussels II bis recast) in cross-border cases must be considered carefully.

*Fundamental Rights and the Best Interest of the Child in Transnational Families* is a timely work on the implementation of the child's interests in the EU and covers the most relevant topics emerging from the rapid internationalisation of child and family law and from the increased mobility of families.

## Family Law



### International Survey of Family Law 2019

M. Brinig (ed.)

ISBN 978-1-78068-796-4  
approx. 452 pp. | hardback  
2019 | € 73 | \$ 88 | £ 69



The International Society of Family Law is an independent, international, and non-political scholarly association dedicated to the study, research and discussion of family law and related disciplines. The Society's membership currently includes professors, lecturers, scholars, teachers, and researchers from more than 50 different countries, offering a unique opportunity for networking within a truly international family law community.

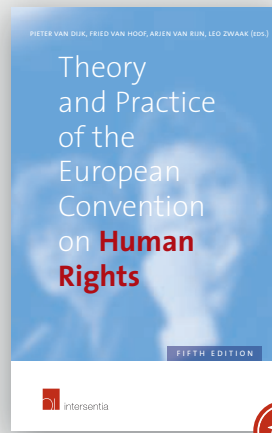
*The International Survey of Family Law* is the annual review of the International Society of Family Law.

It brings together reliable and clearly structured insights into the latest and most notable developments in family law from all around the globe. Chapters are prepared by an international team of selected experts in the field, usually covering 20 or more jurisdictions in each edition.

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MARGARET BRINIG is the Fritz Duda Family Chair in Law and Fellow at the University of Notre Dame. She is an elected member of the American Law Institute and part of the Executive Council of the International Society of Family Law.

## Human Rights



### Theory and Practice of the European Convention on Human Rights

5th edition

P. van Dijk, F. van Hoof,  
A. van Rijn and L. Zwaak (eds.)

ISBN 978-1-78068-493-2  
xviii + 1230 pp. | hardback  
2018 | € 175 | \$ 210 | £ 166



Since the first edition of *Theory and Practice of the European Convention on Human Rights* forty years ago, this book has become the leading reference in the field of human rights in Europe. It provides a systematic and comprehensive overview of the functioning of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its application by the European Court of Human Rights.

With Protocol No. 14 entering into force on 1 June 2010, the protection

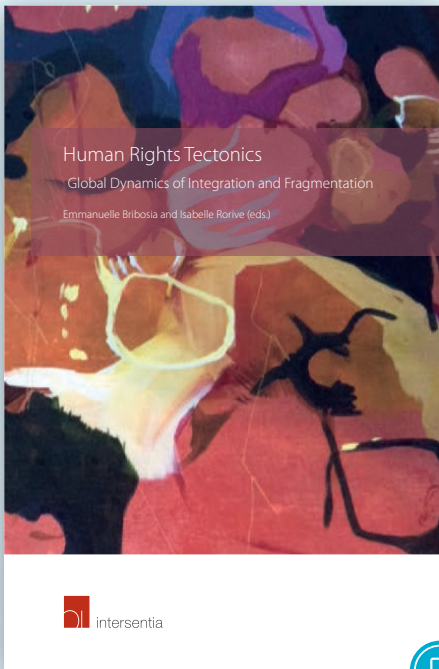
of human rights in Europe and the case law of the Court have seen a dynamic development during the last decade. A completely new edition of *Theory and Practice of the European Convention on Human Rights* was thus very much needed.

This fifth edition is again an accessible, easy-to-use, complete and up-to-date reference book, which provides an essential source of information for the practitioners, theorists and students in the field of human rights.

“  
Since its first publication in 1978, van Dijk and van Hoof's *Theory and Practice of the European Convention on Human Rights* has been an indispensable reference guide to the functioning of the Strasbourg based European human rights system.

”

– Professor Christina M. Cerna



## Human Rights Tectonics

*Global Dynamics of Integration and Fragmentation*

E. Bribosia and I. Rorive (eds.)

ISBN 978-1-78068-613-4

xxxvi + 332 pp. | paperback

2018 | € 89 | \$ 107 | £ 85

“

**[*Human Rights Tectonics*] is a volume of high academic quality, in which coherence is assured by the common perspective, yet at the same time a range of current topics of human rights law is discussed. As such, it will be of interest to many scholars of human rights law.**

”

– From the Foreword by Prof. Dr Eva Brems

*Human Rights Tectonics: Global Dynamics of Integration and Fragmentation* is a collaborative effort of internationally renowned human rights experts to analyse the effectiveness of legal protection in a highly fragmented and multi-layered human rights system.

Bringing together international, European and national perspectives and focusing on select subject areas such as non-discrimination, accommodation of cultural identity and socio-economic rights, the book examines the difficulties faced by human rights lawyers in their day-to-day work.

Through the implementation of a methodology applying both theoretical inquiry and case study examples, the book analyses the impact of the fragmentation of international and regional human rights and how this can cause failures in effective legal protection or, on certain occasions, strengthen it. The imagery of plate tectonics aims to portray the extent to which human rights law is in perpetual construction and constant renewal with lines of convergence and divergence.

Entangled into battles, shocks, jolts or clashes, human rights find themselves today ‘on trial’. Against this backdrop, the book addresses the case for an increased integration of human rights law, comprehensively and critically, with a focus on concrete and contemporary issues.

---

EMMANUELLE BRIBOSIA and ISABELLE RORIVE are law professors at the Université libre de Bruxelles (ULB). They are Director of the Center for European Law and Director of the Centre Perelman for Legal Philosophy respectively. They co-founded the Equality Law Clinic.

# Human Rights



## Domestic Abuse and Human Rights

S. Choudhry and J. Herring (eds.)

ISBN 978-1-78068-231-0  
approx. 230 pp. | paperback  
2019 | € 59 | \$ 71 | £ 56

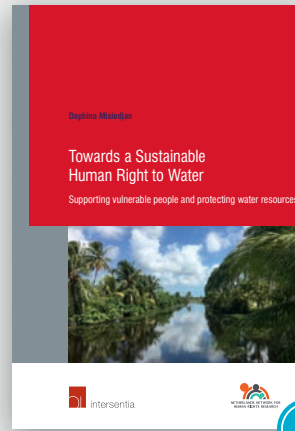


*Domestic Abuse and Human Rights* presents an overview of the relevance of the European Convention on Human Rights to domestic abuse. It will have three aims: first, to consider the relevant case law and application of the key articles to questions around domestic abuse; second, to consider at a theoretical level the balancing between protection and autonomy at the heart of the legal response to domestic abuse; third, to propose practical application of a human rights approach to issues around domestic abuse, with particular emphasis placed on the significance of the Istanbul Convention on Preventing and Combatting Violence against Women.

The relevance of the key Articles of the European Convention on Human

Rights will be explained. The book will include material on the definition of domestic abuse, elder abuse, parental abuse, and the impact of abuse on children. It seeks to bring out the themes which connect these issues as well as the ways in which they raise distinct questions.

The book argues that a human rights approach requires states to take a pro-active stance towards domestic abuse. It should no longer be regarded as a private matter, but as a human rights approach mandating state intervention, although within limits. So understood, the European Convention on Human Rights provides a powerful impetus for states to ensure an effective response to the major problem of domestic abuse.



## Towards a Sustainable Human Right to Water

*Supporting vulnerable people and protecting water resources*  
D. Misiedjan

*Human Rights Research Series, Volume 85*  
ISBN 978-1-78068-612-7  
approx. 300 pp. | paperback  
2019 | € 69 | \$ 83 | £ 66



*Towards a Sustainable Human Right to Water* is a timely examination of a critical and time-sensitive subject in the field of human rights law. Aside from being a basic necessity for human survival, the United Nations identifies water as being a keystone of sustainable development and at the very heart of healthy ecosystems and socio-economic development. Thus, the book poses the critical question how the concept of sustainable development can contribute to the sustainable realisation of the human right to water for vulnerable people. It takes a three step approach in providing an answer to this fundamental question of our time.

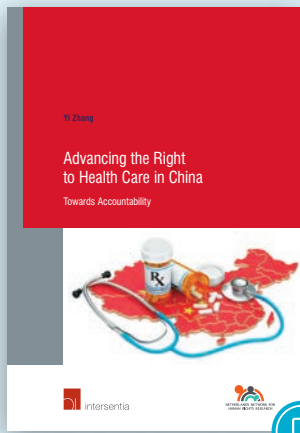
Firstly, the case is made for a broadening of the scope of vulnerability to include environmental factors and it is argued that the notion of vulnerability, as it is currently understood within the

human rights discourse, is too limited.

Secondly, principles of sustainable development can be used to shape and further develop the human right to water. This would allow for the right to be realised in a sustainable manner. States could comply with both international human rights legislation and international environmental legislation.

Finally, an assessment framework is developed to analyze how states can implement the human right to water in a sustainable way. Bringing together the different disciplines of law, economics and public administration, it provides for basic water system knowledge which is required for a comprehensive exploration of the main challenges, and for offering recommendations specific to a national or regional context.





**Advancing the Right to Health Care in China**  
*Towards Accountability*  
Y. Zhang

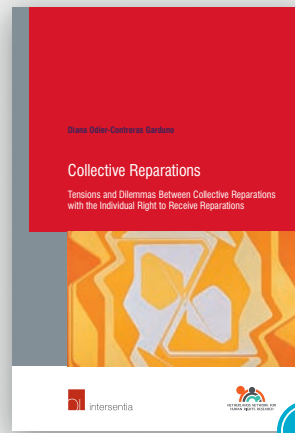
*Human Rights Research Series,*  
*Volume 83*  
ISBN 978-1-78068-677-6  
xviii + 374 pp. | paperback  
2019 | € 70 | \$ 84 | £ 67



Health is indispensable for living a life of dignity. Currently, there is an almost universal commitment to the right to health(care). However, despite the growing legal recognition of this right, empirical evidence suggests that, as a whole, the implementation of the right to health(care) remains largely rhetorical at the domestic level. For example, although China ratified the International Covenant on Economic, Social and Cultural Rights in 2001, relatively little attention has been paid to the domestic implementation of the right to health(care). Violations of this right were also identified in reality. Given that China's health care reform is entering the so-called 'deep-water' zone, it is essential for the Chinese government to investigate how to guarantee everyone equal access to health care.

*Advancing the Right to Health Care in China* analyses the role of accountability, a Western concept that has recently been introduced to China, in advancing the right to health care in light of China's unique political, legal and social background. In doing so, this book synthesises two different concepts: (1) the right to health; and (2) accountability, and integrates them into an analytical framework for 'right to health-based accountability'.

This book first systematically evaluates the status quo of the legislative and policy measures China has taken to give effect to the right to health care within its jurisdiction. It then identifies the shortcomings in China's domestic implementation of this right and seeks to address the remaining challenges through the lens of accountability.



**Collective Reparations**  
*Tensions and Dilemmas between Collective Reparations with the Individual Right to Receive Reparations*  
D. O. Contreras-Garduno

*Human Rights Research Series,*  
*Volume 84*  
ISBN 978-1-78068-705-6  
xvi + 426 pp. | paperback  
2018 | € 85 | \$ 102 | £ 81



Although international human rights law establishes the individual right to receive reparations, collective reparations have been considered a common response from judicial and non-judicial bodies to reparations for victims of gross violations of human rights. As such, collective reparations have been awarded within the field of international human rights law, international criminal law and transitional justice. Yet the concept, content and scope of collective reparations are rather unspecified. To date, neither the judicial nor the non-judicial bodies that have granted this kind of reparations have ever defined them.

This book presents the first study on collective reparations. It aims to shed light on the legal framework, content and scope of

collective reparations, and to the relationship between collective reparations and the individual right to reparations. In order to do so, the book analyses specific case law from the Inter-American Court of Human Rights, the International Criminal Court and the Extraordinary Chambers in the Courts of Cambodia. Additionally, the practices of non-judicial mechanisms were examined, specifically those of the Peruvian and Moroccan Truth Commissions and of two mass claims compensation commissions (the United Nations Compensation Commission and the Eritrea-Ethiopia Claims Commission). Finally, it provides an overview of the challenges that collective reparations present to the fields of international human rights law and international criminal law, including in their implementation.

# Human Rights



## European Yearbook on Human Rights 2018

W. Benedek, P. Czech,  
L. Heschl, K. Lukas and  
M. Nowak (eds.)

ISBN 978-1-78068-706-3  
xxx + 626 pp. | paperback  
2018 | € 75 | \$ 90 | £ 71



Both in Europe and around the world, 2017 has been another difficult year for the protection of human rights. Examples of the increased pressure on the European human rights system are apparent: the attack on the independence of the judiciary in Poland, which was responded to by the first time initiation of the rule of law procedure by the European Commission; the increasing human rights issues arising from European migration policy; Russia's suspension of its financial contribution to the Council of Europe

and Turkey's lowering of its contribution; and the difficulties in appointing key human rights positions in the Organization for Security and Cooperation in Europe.

Split into its customary four parts and complemented by book reviews of recent publications on human rights in Europe, the tenth volume of the *European Yearbook on Human Rights* brings together renowned scholars to analyse some of the most pressing and topical human rights issues being faced in Europe today.

“

**We hope that reading this Yearbook, which is unique in its focus and vocation, will not only help to better understand the rich landscape of the European regional human rights system but will also stimulate discussion and critical thinking about human rights developments.**

”

– From the Editor's Preface

# Intellectual Property



## Enforcement of Intellectual Property Rights in the EU Member States

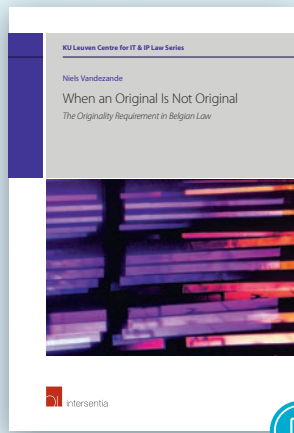
F. Petillion (ed.)

ISBN 978-1-78068-681-3  
xxviii + 1244 pp. | hardback  
2018 | € 205 | \$ 246 | £ 195

*Enforcement of Intellectual Property Rights in the EU Member States* provides a timely overview and thorough analysis of intellectual property rights enforcement in the EU Member States. Taking legal action in one or several countries in the EU to enforce intellectual property rights is quite a challenge. The adoption of European Directive 2004/48/EU on the Enforcement of Intellectual Property Rights was meant to put a halt to considerable discrepancies in national legislations which caused uncertainty and a difference in enforcement between the EU Member States. The Enforcement Directive aimed to create a level playing field and to ensure a high, equivalent and homogeneous level of intellectual property protection across the EU.

Over the past decade, the Enforcement Directive has been transposed into all EU Member States, in national legislation and through its application in national and EU case law. Both are essential to understand the Enforcement Directive's actual scope of application. In order to prepare and undertake an action in different countries – potentially simultaneously – knowledge of national legislation, local custom and practice, as well as procedural law, national and EU case law is essential.

This book is a collaborative effort of lawyers from top tier firms from all 28 EU Member States. It is a valuable resource for both practitioners – who are active cross-border and internationally – and general counsel – who seek an in-depth analysis of the legal landscape across the EU.



## When an Original is Not Original *The Originality Requirement in Belgian Law* N. Vandezande

KU Leuven Centre for IT & IP Law  
Series, Volume 4  
ISBN 978-1-78068-760-5  
ix + 172 pp. | hardback  
2018 | € 65 | \$ 78 | £ 62

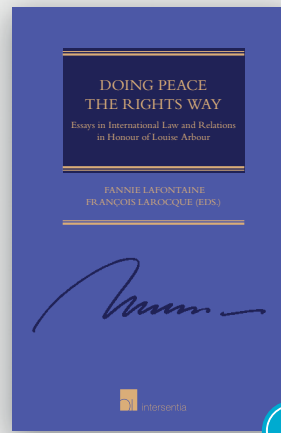


Originality is an important element in different branches of law. For instance, under Belgian contract law, a written mutual agreement must be drafted in as many originals as there are parties. In other branches of law, there are requirements for the preservation of original documents. However, while originality may be an element common to different branches of law, there are clear indications that the precise meaning of this notion may be rather divergent between them. Moreover, the introduction of digital processes in many aspects of law has provided another dimension to this matter, as originality remains a difficult element to apply in the realm of electronic information.

Currently, there are little to no guidelines on how to establish when electronic

information is original and when it is not. Therefore, it is the aim of this book to analyse a select number of incarnations of the originality requirement in different branches of Belgian law in order to establish whether common elements or a common root can be found. These findings will subsequently be applied to the practice of digitalization in law in order to gain a better understanding of how the concept of originality should be interpreted in this matter.

At a time when issues arising from digitalization in law are increasingly prevalent, this book aims to provide the reader with an examination of the current situation and attempts to find a uniform legal definition for the concept of originality that would be applicable across different branches of law.



## Doing Peace the Rights Way *Essays in International Law and Relations in Honour of Louise Arbour* F. Lafontaine and F. Larocque (eds.)

ISBN 978-1-78068-706-3  
approx 400 pp. | paperback  
2019 | € 75 | \$ 90 | £ 71

With a foreword by former UN Secretary General Kofi Annan



This unique collection of essays by world leaders and experts addresses the most pressing contemporary issues in international law and relations. The authors are leading experts and renowned actors on the international stage, or in national jurisdictions, who have all interacted closely with Louise Arbour in the course of her career. Louise Arbour has had a profound impact on the development of international law and has played significant roles in international institutions, as Prosecutor for the International Criminal Tribunals for Rwanda and the former Yugoslavia, United Nations High Commissioner for Human Rights, CEO of the International Crisis Group and Special Representative of the UN Secretary-General for International Migration. She also held the top legal positions in Canada and

helped shape Canadian law, as an academic and as a judge, sitting on its highest bench, the Supreme Court of Canada. Louise Arbour is a leader on issues of conflict prevention and resolution, criminal justice and human rights, and her vision often sets the standard.

The book tackles substantive topics, such as the right to truth, torture, immunity and women's rights, in light of current and past events, challenging basic assumptions and bringing fresh thoughts to debates that are at the core of the world's agenda. The backbone of each contribution is the interaction between justice and peace, between human rights and conflict, and between law and politics, in the international sphere or domestic context.

A. Klip, S. Freeland and A. Low (eds.)

## Annotated Leading Cases of International Criminal Tribunals

**The Annotated Leading Cases of International Criminal Tribunals Series provides the reader with the full text of the most important decisions, including concurring, separate and dissenting opinions. Distinguished experts in the field of international criminal**

**law have commented the most important decisions.**

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of the International Criminal Tribunals. The added value is that the selected cases are not only shown in their full format but are also summarised and annotated by leading academics in the field of international criminal law. *The Annotated Leading Cases of International Criminal*

*Tribunals* Series is useful for students, scholars, legal practitioners, judges, prosecutors and defence counsel who are interested in the various legal aspects of the law of the ICTY, ICTR and other forms of international criminal adjudication.

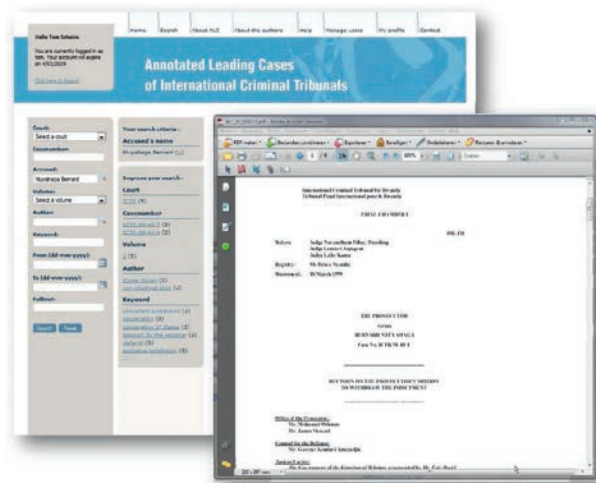
In addition to the book series you can now browse and consult the annotated decisions online. The decisions and commentaries are downloadable in pdf format. Searching for the relevant judgment or case has never been easier. You can search the database by:

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\* Subscription prices are for one standalone user only. If you wish to subscribe for multiple users or via IP recognition, please contact us by email for a price offer. \*\* This price is only for your subscription to the online system. You will receive a separate invoice for each book of the series (€ 185 (incl. VAT) per book -20% + postage: € 185 being the retail price on which you receive a 20% reduction as a subscriber).



**Volume 53**  
**The International Criminal Tribunal for Rwanda 2010-2012**

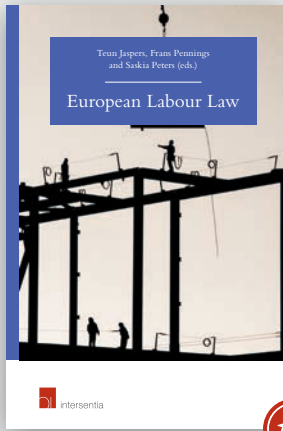
ISBN 978-1-78068-490-1  
approx. 974 pp.  
2018 | € 185 | \$ 222 | £ 176

**Volume 54**  
**International Tribunal for the Former Yugoslavia 2009-2011**

ISBN 978-1-78068-689-9  
approx. 850 pp.  
2018 | € 185 | \$ 222 | £ 176

**Volume 55**  
**International Tribunal for the Former Yugoslavia 2011-2012**

ISBN 978-1-78068-680-6  
approx. 1200 pp.  
2018 | € 185 | \$ 222 | £ 176



## European Labour Law *Economics, Access, Law, and Regulations in Key Jurisdictions*

T. Jaspers, F. Pennings  
and S. Peters (eds.)

ISBN 978-1-78068-704-9  
approx. 582 pp. | paperback  
2019 | € 95 | \$ 114 | £ 90

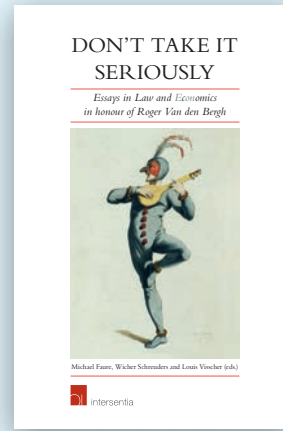


This book provides for a comprehensive overview of the various areas of European labour law: fundamental rights, free movement of workers and posting, equal treatment, a-typical forms of employment, collective bargaining and collective agreements, restructuring of enterprises and health and safety. The chapters are written by eminent experts from a considerable number of EU Member States. Most of them are written by two authors from different Member States.

As a result of this duo-authorship the book does not approach European labour law from a single country perspective, but intends to give insight in the different ways European labour law was received and implemented in the various Member States.

The book does not only describe the current state of affairs, but also critically assesses how the interaction of EU legislature, Court of Justice, Member States and social partners has contributed to the development of EU labour law. As such, it is not only a comprehensive introduction to European labour law, but provides also food for thought as part of advanced study in this area.

This handbook, dealing with all important areas of labour law, written from several perspectives by experts, but within a restricted number of pages, is therefore also excellent study material for master programmes of European labour law.



## Don't Take It Seriously *Essays in Law and Economics in Honour of Roger Van den Bergh*

M. Faure, L. Visscher and  
W. Schreuders (eds.)

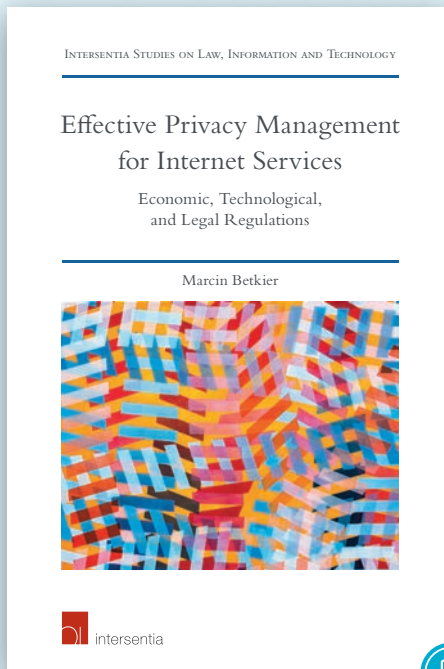
ISBN 978-1-78068-679-0  
xiv + 538 pp. | hardback  
2018 | € 115 | \$ 138 | £ 109

'Don't take it seriously' is a quote from the 'Erasmus Mundus song,' written by Roger Van den Bergh at the occasion of the Erasmus Mundus recognition of the European Master in Law and Economics. Or, as Roger likes to call it, the European Master in Law and Comics. This quote is so characteristic of Roger, that it now serves as the title of this Liber Amicorum, with which we express our friendship with and gratitude towards Roger, for his outstanding contribution to Law and Economics.

Through his combined part-time chairs in Law and Economics in several countries, his subsequent appointment in Rotterdam to the first full-time chair in Law and Economics in Europe, as well as his long presidency of the European Association of Law and Economics, Roger

has advanced and shaped the development of the Economic Analysis of Law.

This Liber Amicorum brings together the contributions of 43 authors, in honour of Roger Van den Bergh. The contributions encompass many different topics, which reflects Roger's broad research interests. They are grouped together in four parts: Competition Law and Economics, Public Law and Economics, Private Law and Economics and Developments in Law and Economics. Many of the contributions contain links to Roger's work, as well as the authors' personal reflections on the importance of Roger for their work. This personal touch makes this Liber Amicorum, truly, a Friends Book for Roger.



## Effective Privacy Management for Internet Services

*Economic, Technological, and Legal Regulations*

M. Betkier

ISBN 978-1-78068-820-6

approx. 281 pp. | hardback

2019 | € 79 | \$ 95 | £ 75

“

**This book addresses a topic of vivid public discussion at both national and international levels where an information technology revolution comes together with pervasive personal data collection.**

”

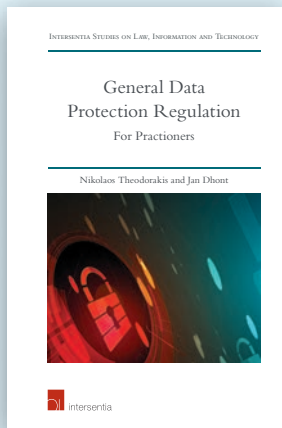


This book addresses a topic of vivid public discussion at both national and international levels where an information technology revolution comes together with pervasive personal data collection. This threat to privacy is peculiar and the old tools, such as consent for personal data processing, fail to work properly in the context of online services. This was clearly seen in the case of Cambridge Analytica which uncovered how easy the procedural requirements of consent and purpose limitation can be abused on a mass scale.

The lack of individual control over personal data collected by online service providers is a significant problem experienced by almost every person using online services: it is an ‘all or nothing’ choice between benefiting from modern digital technology and keeping their personal data away from the extensive corporate surveillance. If people are to have autonomous choice in respect of their privacy processes, then they need to be able to manage these processes themselves. To put individuals in the driver’s seat, the book first conducts a careful examination of the economic and technical details of online services which pinpoints both the privacy problems caused by online service providers and the particular features of the online environment. Then it devises

a set of measures to enable individuals to manage these processes taking into account economic, technological and legal considerations. The proposed Privacy Management Model consists of three interlocking functions of controlling, organising, and planning. This requires a mix of regulatory tools: a particular business model in which individuals are supported by third parties (Personal Information Administrators); a set of technological/architectural tools to manage data within the ICT systems of the online service providers; and laws capable of enabling and supporting all these elements.

The proposed solution remedies the structural problems of the Internet arising from its architectural and informational imbalances and enables the effective exercise of individual autonomy. At the same time, it facilitates the effective operation of online services and recognises the fundamental importance of the use of personal data for the modern economy. All of this is designed to change the way decision-makers think about Internet privacy and form the theoretical backbone of the next generation of privacy laws. It also shows that technology is not intrinsically privacy invasive and that effective regulation is possible.

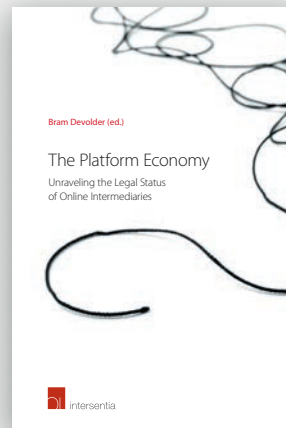


## **General Data Protection Regulation For Practitioners** N. Theodorakis and J. Dhont

ISBN 978-1-78068-695-0  
approx. 300 pp. | hardback  
2019 | € 145 | \$ 174 | £ 138

The EU's General Data Protection Regulation (GDPR) entered into force in May 2018. It is the most significant legal development in the sphere of privacy and data protection in the EU in the past 20 years. The ramifications of this new legislation are wide-ranging since they do not only affect the EU, but also every country that interacts with EU consumers. Now that the dust has settled, several questions have been raised: How does the GDPR interact with national and sectorial legislation? What triggers its extraterritorial application? How does the role of the Data Protection Officer function in practice? How should companies deal with data subject access requests? How does data breach notification work and what is the role of Supervisory Authorities in this new era?

The book addresses all of these issues and many more through an eclectic mix of academic debate and practical considerations. Its unique approach explains the theory and reasoning behind every major GDPR development, and connects them to how these provisions work in practice. The book follows a disciplined structure in accordance with the GDPR and discusses the topical debates surrounding it in the past two years. It goes on to provide an outlook of what the future of privacy in the EU will look like as regards each of these contentious and rapidly emerging areas of the law, such as cross-border data transfer, privacy litigation and privacy activism.



## **The Platform Economy** *Unravelling the Legal Status of Online Intermediaries* B. Devolder (ed.)

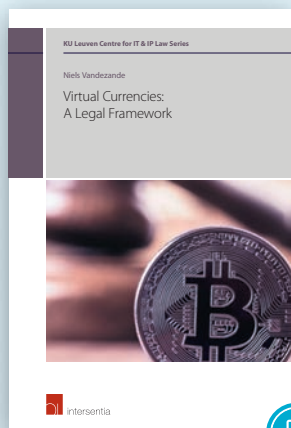
ISBN 978-1-78068-634-9  
approx. 330 pp. | hardback  
2019 | € 95 | \$ 114 | £ 90

On 20 December 2017 and 10 April 2018 respectively, the Court of Justice of the European Union passed two landmark cases on the legal status of internet platform Uber. The Court established that Uber does not merely provide an app, but rather offers a full transport service. Without Uber there would be no market for non-professional drivers using their own vehicles. Moreover, the platform exercises a decisive influence over the conditions under which drivers provide their service.

These rulings address the very core of several highly debated questions on the legal status of online intermediaries such as Uber, Airbnb and TaskRabbit. Is regulatory intervention needed to reap the potential benefits of the platform economy or to mitigate the potentially negative consequences of

regulatory disruption? Can platforms be held liable for the proper execution of services provided by others? Does existing national regulation impose disproportionate market restrictions on innovators? Should we rethink labour protection and social security? How can revenue law be improved to tackle elaborate (international) schemes to avoid direct and indirect taxation?

Traditional regulation, which often focuses on balancing the interests of two contracting parties, is now confronted with the three-sided contractual relationship between a platform, a supplier and a user. In this book, a panel of international legal experts unravel the legal status of online intermediaries – a thorny knot that legislators, judges and lawyers across the globe are facing.



## Virtual Currencies: a Legal Framework

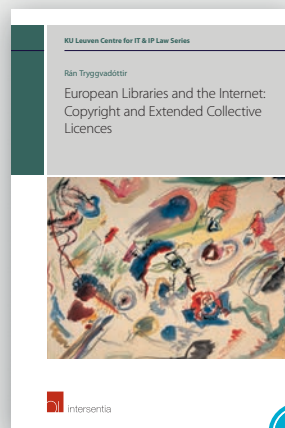
N. Vandezande

*KU Leuven Centre for IT & IP Law  
Series, Volume 1*  
ISBN 978-1-78068-675-2  
xix + 500 pp. | hardback  
2018 | € 135 | \$ 162 | £ 128



In the last few years, the cryptocurrency bitcoin has repeatedly made worldwide headlines with its fluctuations in value and the uncertainty regarding the legal framework under which it operates. While bitcoin has swiftly become the foremost example of a virtual currency, it is by no means the only one. In-game currencies and currencies used as part of a loyalty scheme are examples as of other forms of virtual currencies. Moreover, new forms of virtual currency used mainly for investment purposes – derived from cryptocurrencies such as bitcoin – are rapidly gaining hold.

This book focuses on the legal aspects of virtual currencies from the perspective of financial and economic law. It establishes a typology of virtual currencies and assesses whether they can be considered as money. The author analyzes whether the EU legal frameworks on electronic money, payment services, anti-money laundering, and markets in financial instruments can be applied to virtual currencies. A functional comparison is made to the US, where more regulatory initiative has been identified. The book concludes by answering the question of whether – and how – virtual currencies should be regulated within the EU.



## European Libraries and the Internet: Copyright and Extended Collective Licences

R. Tryggvadóttir

*KU Leuven Centre for IT & IP Law  
Series, Volume 2*  
ISBN 978-1-78068-674-5  
xxiii + 448 pp. | hardback  
2018 | € 105 | \$ 126 | £ 100



Before the advent of digital technology, libraries acquired copyrighted works in tangible hard copies. Those copies were then preserved in their original form and access was granted either on the premises or through lending schemes. Today, libraries often handle works that are born digital and, in many cases, have never existed in tangible form. In addition, there is a demand to digitize analogue works, inter alia to make them available on-line. These developments and the high volume of in-copyright works in library collections create tensions with copyright law and constitute a major challenge for libraries and other cultural heritage institutions wishing to operate in the digital world.

The implications of these developments for libraries are stark; if libraries are to prevent themselves from becoming obsolete, they must provide the same services in the digital environment as they currently do in the analogue world, whilst ensuring they operate within the legal framework.

This book examines whether the system of extended collective licences could facilitate online access without territorial limitations to in-copyright works in libraries, within Europe or more specifically within the European Economic Area (EEA). The book explores options for a legal framework, in particular the system of extended collective licences.





## Intermediary Liability and Freedom of Expression in the EU: From Concepts to Safeguards

A. Kuczerawy

KU Leuven Centre for IT & IP Law Series, Volume 3  
ISBN 978-1-78068-714-8  
xii + 425 pp. | hardback  
2018 | € 105 | \$ 126 | £ 100



States increasingly delegate regulatory and police functions to Internet intermediaries. The delegation is achieved by providing an incentive in the form of conditional liability exemptions. In the EU, the exemptions enshrined in the E-Commerce Directive effectively require intermediaries to police online content if they wish to maintain immunity regarding third party content. Such an approach results in delegated private enforcement that may lead to interference with the right to freedom of expression. Involving intermediaries in content regulation may be inevitable. The legal framework, on which it is based, however, should come equipped with safeguards that ensure effective protection of the right to freedom of expression.

This book analyses the positive obligation of the European Union to introduce safeguards for freedom of expression when delegating the realisation of public policy objectives to Internet intermediaries. It also identifies and describes the safeguards that should be implemented in order to better protect freedom of expression.

In a time when these issues are of particular relevance, *Intermediary Liability and Freedom of Expression in the EU* provides the reader with a broader perspective on the problem of delegated regulation of expression on the Internet. It also provides the reader with an up to date information on the discussions in the EU.



## The Impact of Cybercrime on Belgian Businesses

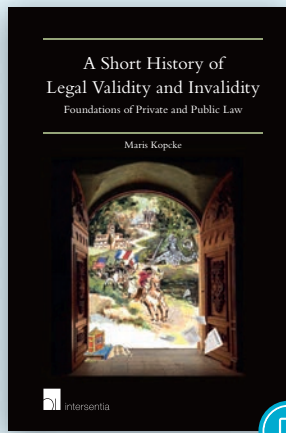
L. Paoli, J. Visscher, C. Verstraete and E. Van Hellemont

KU Leuven Centre for IT & IP Law Series, Volume 5  
ISBN 978-1-78068-773-5  
xiii + 139 pp. | hardback  
2018 | € 55 | \$ 66 | £ 52



Information technology offers unprecedented opportunities to individuals, businesses and the public sector but also creates new vulnerabilities to crime. Impressive cybercrimes have been reported in the media in recent years, demonstrating the grave harm that even a single cyberattack can cause. Yet no systematic assessment of the impact of cybercrime on Belgian society and economy had been conducted until the start of the research project Belgian Cost of Cybercrime (BCC) in 2013, which was funded by the Belgian Service Science Policy Office (BELSPO) and coordinated by the KU Leuven Centre for IT & IP Law (CiTiP), in collaboration with the KU Leuven Institute of Criminology (LINC).

Building on that large multidisciplinary project, the book assesses the impact of cybercrime on businesses based in Belgium, drawing from a thorough conceptualization of both cybercrime and its impact. Using data collected through two surveys sent to more than 9,000 representatives of Belgian businesses, the authors report that most of the responding businesses are confronted with at least one type of cybercrime every year and some of them suffer serious harm from these incidents. Lastly, the book calls for the identification and implementation of effective preventive measures targeting the different types of cybercrime.



## **A Short History of Legal Validity and Invalidity** *Foundations of Private and Public Law* M. Köpcke

ISBN 978-1-78068-815-2  
xiv + 119 pp. | paperback  
2018 | € 49 | \$ 59 | £ 47

The twin ideas of legal validity and invalidity are ubiquitous in contemporary private and public law. But their roots lie buried deep in European legal culture. This book for the first time traces and reveals these roots. In the course of a 2000-year journey through landmark texts of the Western tradition, from Roman law to modern codification and constitutionalism, the book shows that, contrary to what is often assumed, validity and invalidity originated in the domain of private transactions and only gradually came to be deployed in the domain of official power and law-making. This went hand in hand with legal thought's acknowledgement that law-making itself can be (in)valid, because legally limited, most recently by a body of constitutionally enshrined human rights. Understanding why, not only when, the technique

of validity appeared, teaches valuable lessons about the kinds of social and political transformation that this technique can help realise – particularly in our age of emerging legal orders, shifting forms of governance, and fresh challenges to the regulation of exchanges in a digitally scripted world.

This accessibly written work will appeal to anyone concerned with validity or invalidity in legal scholarship and practice, whether in public or private law.

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MARIUS KÖPCKE is a Research Fellow at the Faculty of Law, University of Oxford, and a Lecturer at the Faculty of Law, University of Barcelona. She holds a doctorate from Oxford, which won the European Award for Legal Theory 2011.



## **Justinian's Digest 9.2.51 in the Western Legal Canon** *Contemporary Causality Concepts in Historical Perspective* W. Ernst

ISBN 978-1-78068-832-9  
approx. 150 pp. | paperback  
2019 | € 49 | \$ 59 | £ 47

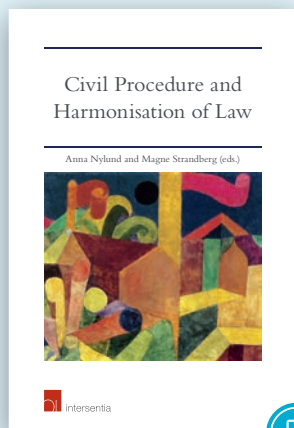
Two texts in Justinian's Digest (533 CE) deal with the liabilities, under the *lex Aquilia*, of two offenders, the first of whom mortally wounds the victim and the second who finishes him off. One of the texts purports that the second attacker is liable for killing, whereas the first attacker is liable for wounding; the author, Domitius Ulpianus (ca 170–223), attributes this view to Juventius Celsus (67–130). The other text by Salvius Julianus (ca 110–ca 170) advocates holding both attackers liable as killers and is thus taken as marking a contrarian view.

The conflicting texts have always puzzled legal scholars. This book covers all attempts at a solution advanced

since the High Middle Ages. Roman law with its irritant contradiction has sparked a colourful spectrum of intellectual responses. Since the 19th Century, the problem has been identified as one of 'overtaking causality' or 'interruption of the causal nexus.' Special attention is given to the transition of Roman law as a 'received' source of law in many countries, interpreted so as to function as the law of the land, to a subject of historical research, controlled by standards of critical scholarship.

The fact that comments have continuously addressed the same issue over the centuries, and the volume of them, allows for the identifying of mega-trends through statistical analysis. A history of Roman law exegeses emerges, highlighting the changing objectives and methodologies over time. Returning to a classical problem, an effort is made to part ways with the established concepts of contemporary causality concepts, without forsaking the legal point of view.

# Litigation and Civil Procedure



## Civil Procedure and Harmonisation of Law

A. Nylund and  
M. Strandberg (eds.)

ISBN 978-1-78068-693-6  
approx. 240 pp. | paperback  
2019 | € 79 | \$ 95 | £ 75



A range of international and European Union legal instruments exert influence on the national civil procedure rules of EU Member States. Some specifically aim for the harmonisation of national procedural law across Europe, while others primarily focus on facilitating cross-border litigation, enforcing rights or setting minimum standards. However, often the same time, instruments cause fragmentation, reduce coherence and challenge prevailing concepts and doctrines of national civil procedure law.

With a view to carefully selected North Western jurisdiction (EU and EEA member states) this book explores how EU, EEA, and international legislation, judicial activism on EU and national level, and new soft law instruments affect national civil procedure law

and how, in turn, national rules may impact on the development of international instruments. How are the respective countries affected by a particular (EU) regulation? Has the regulation generated changes of the national law? Are European rules, or national rules following from them, applied in court practice? Are there differences in the approach towards implementation and application of EU law, and if so why and with what consequences? Do international influences serve as an impetus for national reforms, or are they implemented mechanically? And finally, do hard law approaches produce more harmonisation or convergence than soft law approaches?



## International Journal of Procedural Law

Published twice a year

Print and online:  
€ 280.10 | \$ 336 | £ 266

Print:  
€ 243.80 | \$ 293 | £ 232

Online:  
€ 296.45 | \$ 356 | £ 282

Prices include VAT

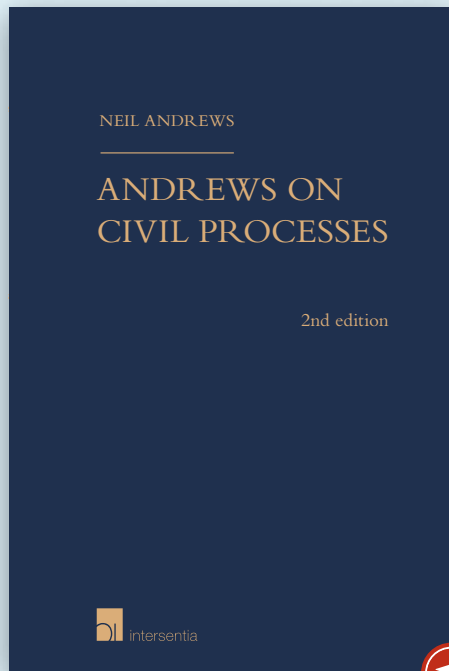


The multilingual International Journal of Procedural Law (IJPL) provides an international research platform for scholars and practitioners in the field of procedural law, especially in civil matters.

In addition to articles in five different languages examining current developments in judicial and alternative dispute resolution, the IJPL also publishes articles devoted to the theoretical foundations of procedural law. Contributions address legal issues from domestic, transnational or international perspectives, including comparative law and conflicts of law aspects. Consequently, the IJPL is not only of interest for scholars but also for practitioners in charge of cross-border cases.

The IJPL is published twice a year. Each issue consists of five parts: Studies, Practice, Debate, Legislation and Information (book reviews, interviews, conference summaries). Articles must be written in English, French, German, Italian or Spanish and will be published in the language in which they have been submitted. Preliminary abstracts in the other languages of the IJPL inform the reader about the central points of each article. The IJPL is the journal of the International Association of Procedural Law.

*Editors-in-Chief: Loïc Cadet (France, Paris 1 Sorbonne), Burkhard Hess (Director MPI Luxembourg) General Assistant-editor: Fernando Gascón (Spain, Complutense de Madrid)*



## Andrews on Civil Processes

2nd edition

N. Andrews

ISBN 978-1-78068-684-4

approx. 1200 pp. | hardback

2019 | € 259 | \$ 311 | £ 246



**The author addresses [the subject] with his characteristic thoroughness, intelligence and intellectual honesty. This is, in sum, an essential work for all those who wish to understand the reality of civil justice in England and Wales, a book that provides answers to practically all the questions one can pose in relation to it and which, at least for this writer and, I believe, my potential readers, seems likely to soon become a standard work of reference.**



– From a review of the first edition by Carlos Esplugues in *Arbitraje: Revista de arbitraje comercial y de inversiones* (2014)

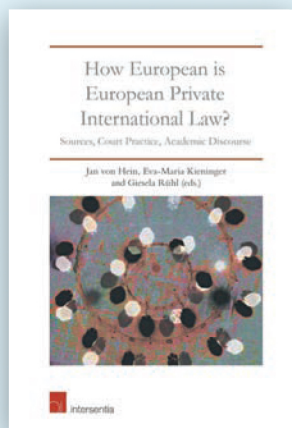


*Andrews on Civil Processes* is a fresh and stimulating examination of Civil Justice, embracing court proceedings, mediation, and arbitration. A critical and principled treatment of the subject made possible by extensive knowledge not only in the English methods and techniques but also in foreign civil procedural laws.

The work guides the reader through the practice of dispute resolution in all its major forms - public and private, adjudicative and conciliatory - and thus provides a complete picture of the court and arbitration systems, and of the developing technique of mediation. It is an outward-looking work and advisors seeking further leads are assisted by detailed citation of primary sources and rich bibliographical references to national and foreign works.

As a fundamental and systematic treatment of the subject by a leading expert, this fully revised and updated 2nd edition is an essential work of reference for litigation advisors, judges, commentators, and students. As many non-resident parties choose to conduct arbitration in London or bring proceedings before the English High Court, notably the Commercial Court, the clear and well-ordered structure of *Andrews on Civil Process* is also of interest to the lawyers beyond England and Wales.

# Private International Law and Conflict of Laws



## How European is European Private International Law?

*Sources, Court Practice, Academic Discourse*

J. von Hein, E-M. Kieninger and G. Rühl (eds.)

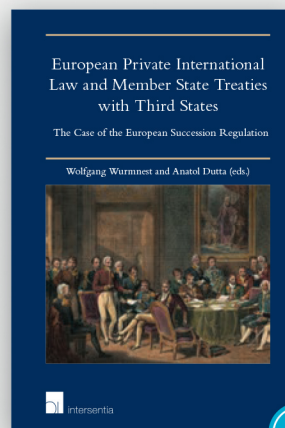
ISBN 978-1-78068-698-1  
approx. 429 pp. | hardback  
2019 | € 99 | \$ 119 | £ 94

Over the course of the last few decades, the European legislature has adopted a total of 18 Regulations in the area of private international law, including civil procedure. The resulting substantial legislative unification has been described as the first true ‘Europeanisation’ of private international law and even as a kind of ‘European Choice of Law Revolution.’

However, it remains largely unclear whether the far-reaching unification of the ‘law on the books’ has turned private international law into a truly European ‘law in action’: To what extent is European private international law actually based on uniform European rules common to all Member States rather than on state treaties or instruments of enhanced cooperation? Is the manner in which academics and practitioners analyse and interpret European private

international law really different from previously existing domestic approaches to private international law? Or, rather, is the actual application and interpretation of European private international law still influenced, or even dominated, by national legal traditions, leading to a re-fragmentation of a supposedly uniform body of law?

In bringing together academics from all over Europe, *How European is European Private International Law?* sets out to answer – for the first time – these crucial and interrelated questions. It sheds light on the conspicuous lack of “Europeanness” currently symptomatic of European private international law and discusses how this body of law can become truly European in character in the future.



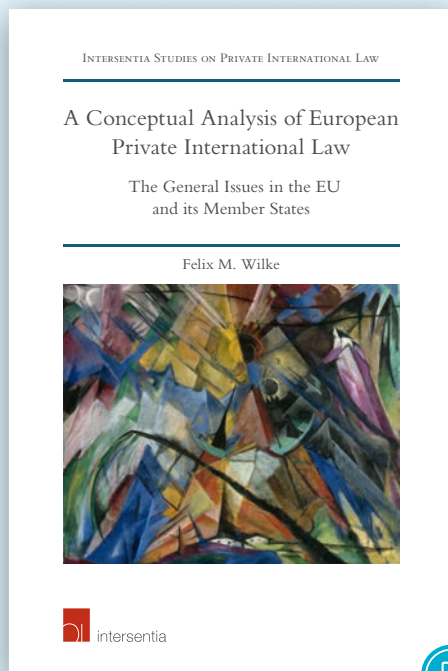
## European Private International Law and Member State Treaties with Third States

W. Wurmnest and A. Dutta (eds.)

ISBN 978-1-78068-664-6  
approx. 450 pp. | hardback  
2019 | € 145 | \$ 174 | £ 138

Several Member States of the European Union have concluded treaties and conventions with Third States dealing with questions of succession law in cross-border matters. Some of these treaties originate from the beginning of the 20th century and are outdated. The European legislator however cannot supersede these treaties and conventions unilaterally with its regulations, in fact they enjoy priority over the European Succession Regulation. The harmonising effect of European private international law is hence endangered, the more so, as these treaties and conventions often cover large groups of third state nationals in the respective Member State.

This book analyses the background, scope and practical impact of bilateral treaties and multilateral conventions concluded by selected Member States of the European Union with Third States, both from the European and the Third State perspective. It evaluates the impact of these treaties and conventions on the functioning of the European Succession Regulation and the possibilities to facilitate the interplay between these instruments and European private international law



**A Conceptual Analysis of  
European Private International Law**  
*The General Issues in the EU and its Member States*  
F. M. Wilke

ISBN 978-1-78068-690-5  
approx. 360 pp. | hardback  
2019 | € 89 | \$ 107 | £ 85

“

**It is the objective of this book to arrive at firm conceptual foundations for general provisions of EU private international law. It pursues this objective from a comparative point of view, taking into account the private international law of all the EU member states, as well as existing EU private international law itself.**

”

– *From the Introduction*



Private International Law (PIL) in Europe is marked by fragmentation and complexity. At EU level, thus far six separate regulations determine the applicable law in different fields of the internal market (e.g. contractual/non-contractual obligations, divorce, succession). While their scope and structure are similar, they do not offer a coherent picture of EU PIL. Moreover, the regulations do not address certain issues at all. To make matters even more complicated, national PIL rules of the Member States apply for areas not yet covered by EU PIL.

This state of affairs has sparked a debate on whether a set of general rules or perhaps a special regulation (“Rome 0”) could help to reduce this complexity. But no common position, even on the scope of such a set of rules, has been reached yet.

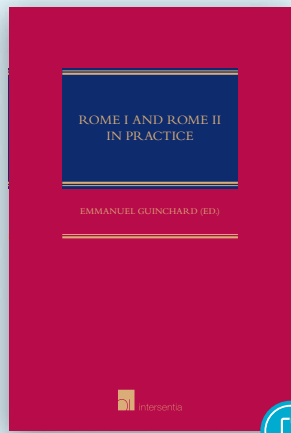
This book begins by taking a step back. It systematically and exhaustively analyses existing PIL rules and issues in EU and national legislation, covering all EU Member States in the process. It then demonstrates that the characteristics of PIL

themselves imply a framework for “general issues” – independently from language, codification or underlying legal tradition. This is largely due to the common elements of PIL rules, i.e. subject matter, connecting factor, and governing law. Taking this further, the book concludes with possible implications for the EU from a law and policy perspective.

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FELIX M. WILKE is a senior assistant and university lecturer at the law and business school of the University of Bayreuth. He holds an LL.M. from the University of Michigan Law School which he attended as a Grotius Fellow. Before returning to the University of Bayreuth for his current position, he was a law clerk at the Hanseatic Higher Regional Court of Hamburg.

# Private International Law and Conflict of Laws



## Rome I and Rome II in Practice

E. Guinchard (ed.)

ISBN 978-1-78068-671-4  
approx. 600 pp. | hardback  
2019 | € 145 | \$ 174 | £ 138

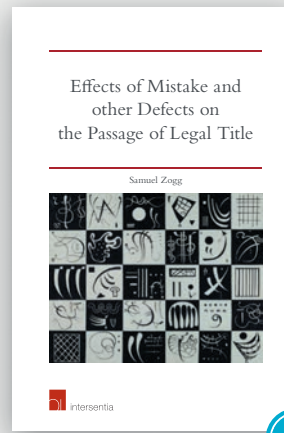


This book is devoted to the applicable law to contractual and non-contractual obligations in the European Union. The Rome I and II Regulations provide uniform conflict of laws rule in order to avoid undue forum-shopping. In theory all national courts of EU Member States (excluding Denmark) apply the same rules determining the applicable law. Rome I and II in Practice examines whether the theory has been put into practice and assesses difficulties that may have arisen in the interpretation and application of these Regulations. Such study appears invaluable as the Rome I and II Regulations may be seen as a critical stepping stone towards the construction of a true and far-reaching European Private International Law.

Providing clear and detailed insights into the national case law of most EU Member States, as well as the case-law of the Court of Justice, and followed by a comparative analysis, this book is a valuable resource for practitioners, the judiciary, and academics who are interested in understanding how EU law is applied on national level.

EMMANUEL GUINCHARD is a Senior Lecturer in Law at Northumbria Law School, United Kingdom. His teaching and research focuses on Private International Law, European Union Law, World Trade Organization Law, and Competition Law.

# Property Law



## Effects of Mistake and other Defects on the Passage of Legal Title

S. Zogg

ISBN 978-1-78068-831-2  
approx. 260 pp. | hardback  
2019 | € 79 | \$ 95 | £ 75

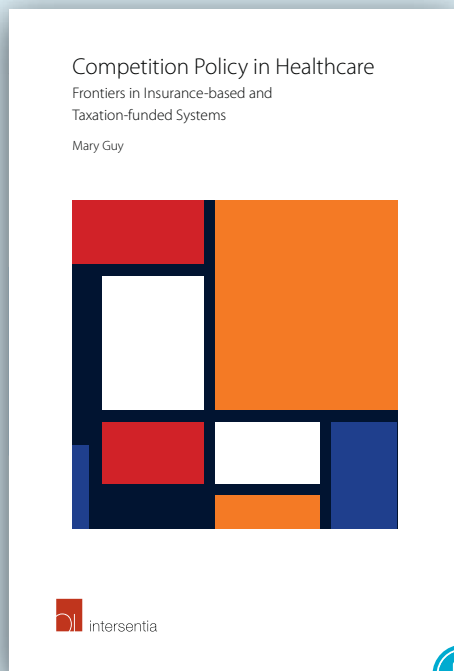


This book analyses the mechanics of how legal ownership in tangible movable property is transferred from one person to another and whether certain kinds of defects, particularly mistakes, may prevent its passage. Though this area of the law may well be regarded as a core area of English private law, it has not yet received much attention in academic literature.

It is argued that English law, on its best interpretation, and contrary to the traditionally accepted approach, adopts a principle of separation (i.e. that the underlying contract or other transaction is notionally distinct from the conveyance of title) and abstraction (i.e. that the conveyance of title is not dependent on the validity of the underlying contract or other transaction).

This applies for transfers by delivery, transfers by sale and transfers by deed. Further, it is very rare for mistakes to prevent the passage of ownership. In fact, title passes unless the transferor's intention to transfer property is virtually absent altogether. For this purpose, an analogy is drawn with the distinctions made in *Shogun Finance Ltd v Hudson* [2003] UKHL 62, [2004] 1 AC 919.

Dr SAMUEL ZOGG is a senior lecturer at the University of Zurich, Switzerland, an attorney at law and law clerk at the Zurich Court of Appeal (civil law chamber).



## Competition Policy in Healthcare

*Frontiers in Insurance-based and Taxation-funded Systems*

M. Guy

ISBN 978-1-78068-649-3

approx. 270 pp. | hardback

2019 | € 79 | \$ 95 | £ 75

“

**It is apparent from the research carried out by Mary Guy that the organisation of the oversight of the competition process in healthcare is subject to a continuous process of restructuring. Mary Guy has been able to make the national measures regarding this process and the rationale underpinning them transparent. As a result, this book is a must-read for every policy maker who is somehow involved in matters related to healthcare and competition.**

”

*– From the Foreword by Professor Johan W. van de Gronden*



This book brings a unique, comparative approach to competition policy in healthcare. By examining an insurance-based and a taxation-funded healthcare system, insights emerge into the applicability and application of general competition law and healthcare-specific competition rules at EU and Member State level. The developing interactions between healthcare regulators and competition authorities, and issues arising from hospital mergers with regard to general and healthcare-specific merger control both receive in-depth analysis.

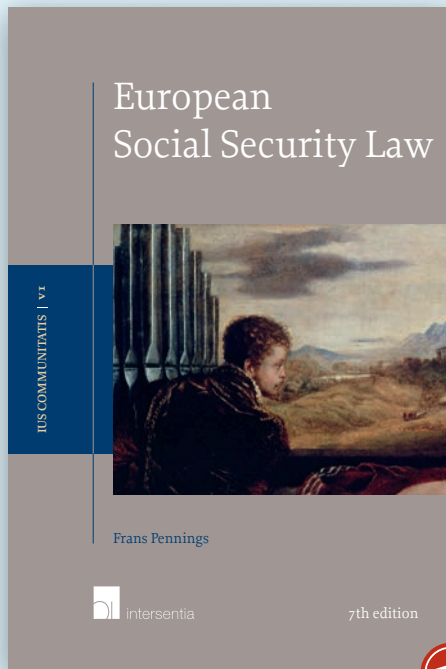
Insights into competition reforms in the Dutch and English healthcare systems show that the term “healthcare” is problematic: there are important distinctions between public and private healthcare, and between healthcare providers and healthcare purchasers. Even a focus on “healthcare providers” has limitations given the myriad services which comprise healthcare delivery. Competition reforms in healthcare attract controversy if seen exclusively as an end in themselves. This book argues that a nuanced approach is needed: competition in healthcare needs to be tempered, and even focused, by national and EU commitments to solidarity.

Following Brexit, scholars and policy makers will maintain interest in comparative and EU law research. This book will thus be essential reading for anyone wishing to understand the mutual implications of EU competition law and policy for developing national healthcare reforms.

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Dr MARY GUY is a Lecturer in Law at Lancaster Law School and is directing the law component of a British Academy/ Leverhulme Trust-funded interdisciplinary project on ‘EU Health Policy and Law – Shaping a Future Research Agenda’ in 2018-2020. She is a member of the European Association of Health Law, the Society of Legal Scholars, the Socio-Legal Studies Association, the British Association of Comparative Law, and the Chartered Institute of Linguists Educational Trust.





## European Social Security Law

7th edition

F. Pennings

*Ius Communitatis Series, Volume 6*

ISBN 978-1-78068-816-9

approx. 390 pp. | hardback

2019 | € 110 | \$ 132 | £ 105

“

**[This] book is indispensable to readers who are interested in the Europeanisation of social security law.**

”

– From a review of the 6th edition in *Ars Aequi* (2015)



In the past decades the coordination of social security provisions of the European Union have become of vital importance. This book gives a clear overview of the main lines and main developments of this significant part of EU law.

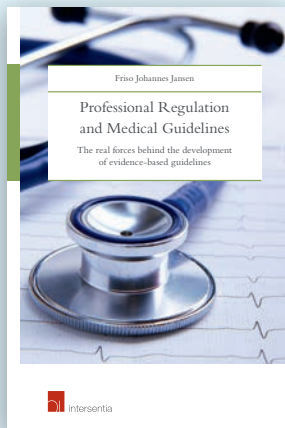
On 1 May 2010 a new Coordination Regulation on social security for migrant workers, Regulation 883/2004, came into force. Since then there has been important case law and there have been very interesting developments, in particular in the area of posting of workers and the influence of the Treaty on the interpretation of coordination provisions. Also the development of the concept of EU citizenship has had an important impact on access to social rights. This book gives a clear overview of these developments, their effects on national case law and the differences with the old coordination Regulation.

A second main part of *European Social Security Law* is that of social policy. In this book the main developments of the equal treatment law of men and women are explained and in addition the present social policy measures and the instruments employed in this area are outlined.

This book is the seventh edition of this authoritative handbook, which is used in many courses on European social security and of which already several translations have been made in other languages.

The volumes in this series provide practitioners with all they need on the European Community level, and moreover give comparative law and legal policy insight. As a series, they give an overview of those areas most affected by European law. Likewise, they provide advanced students with material for excellent examination results. Each volume is written by an authoritative expert in the field. The remaining volumes will follow in 2008 and 2009. All the books in the *Ius Communitatis*-Series focus on Community regulations as experienced in daily practice. Each volume covers the entire field of law in a distinctive and comprehensive way.

The series is published under the editorial supervision of Prof. Dr. STEFAN GRUNDMANN LL.M. (Humboldt-Universität zu Berlin, Germany), the co-founder of the Society of European Contract Law (SECOLA).



**Professional Regulation and Medical Guidelines**  
*The real forces behind the development of evidence-based guidelines*

F. J. Jansen

ISBN 978-1-78068-819-0  
 approx. 258 pp. | paperback  
 2019 | € 79 | \$ 95 | £ 75

Evidence-based medical guidelines are an inescapable element of current medical practice, but how are they developed? This book interrogates what causes these differences and similarities between guidelines and uncovers the mechanisms behind the development of medical practice guidelines.

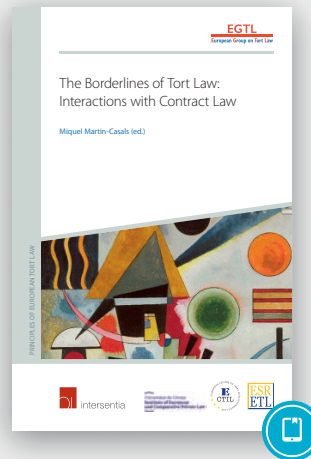
Four case studies, on lower back pain and on type 2 diabetes in England and the Netherlands, are used to provide a detailed empirical account of the development of medical guidelines. Interviews with guideline developers are combined with a detailed analysis of guideline documents. Theories from science and technology studies, institutional literature, group decision-making, and professional self-regulation are used to demonstrate how the

development of guidelines involves a series of subjective choices driven by economic, cultural, institutional and political frames.

Medical evidence plays a more limited and nuanced role in guideline construction than might be expected. *Professional Regulation and Medical Guidelines* sheds light on the power of experts and institutions to shape the governance of healthcare, and argues for greater transparency of the processes by which experts decide on the gold standard of care.

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Dr FRISO JANSEN is Senior Law Lecturer at Birmingham City University and holds a DPhil in Socio-Legal Studies from the University of Oxford. He is an experienced academic with a particular focus on the interaction of science and law.



**The Borderlines of Tort Law: Interactions with Contract Law**  
 M. Martín-Casals (eds.)

*Principles of European Tort Law*  
 ISBN 978-1-78068-248-8  
 approx. 500 pp. | paperback  
 2019 | € 85 | \$ 102 | £ 81

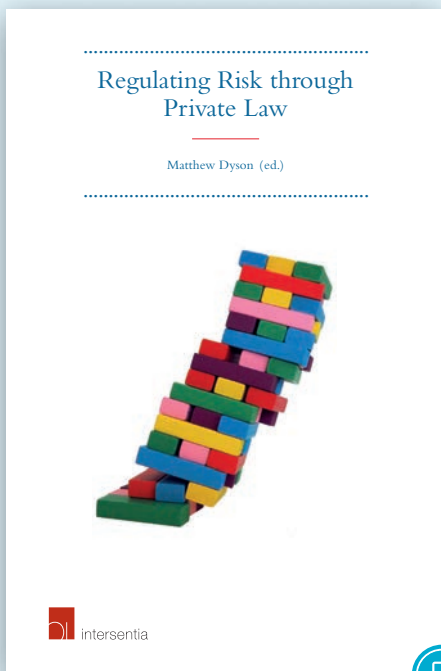
All European legal systems recognise a boundary between the domains of tort and contract. While there have been voices contending that this distinction is no longer valid or at least that there should be a unification of the two sets of rules in particular contexts, others claim that there is still a very important distinction to be maintained. In fact the boundary between the two areas is often blurred and whether it is drawn in one place or another varies from country to country, giving rise to the paradox that what is considered a matter of contractual liability in one legal system is governed exclusively by tort law in another.

This volume explores how differences between tort and contract affect the foundations of liability, the nature and amount of the compensation, the extent of liability and whether defences

and limitation periods corresponding to the distinct causes of action give rise to substantially different outcomes. It also analyses to what extent actions in tort and in contract exclude each other and, when this is the case, how their concurrence is organised. Lastly it devotes its attention to specific situations such as pre-contractual liability and the liability of professionals.

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*With contributions by C. Amato, B. Askeland, E. Baginska, J.S. Borghetti, J. Cardí, G. Comandé, E. Dacoronia, I. Durant, M.G. Faure, J. Solé Feliu, I. Gilead, A. Ruda González, M.D. Green, J.Hrádek, E. Karner, A. L.M. Keirse, B. A. Koch, W. Liao, U.Magnus, M. Martín-Casals, J. Neethling, K. Oliphant, L. Tichý, V. Ulfbeck, P. Widmer, V. Wilcox and B. Winiger.*



## Regulating Risk through Private Law

M. Dyson (eds.)

ISBN 978-1-78068-479-6  
xxxii + 532 pp. | hardback  
2019 | € 95 | \$ 114 | £ 90

“

**This is the first multi-handed work on risk to explore what risk-reasoning adds to private law and how best it can be deployed, resisted or simply understood.**

”

*Regulating Risk Through Private Law* sets out, for nine significant legal systems, an overarching conception of risk in legal theory, particularly of the linked role of risk-taking in generating liability and in liability regulating risk. It examines and explains what risk-based reasoning adds to private law.

Taking tort law as the core case study, the book analyses national variation in risk understanding, liability, culture and regulation and from that, develops a legal framework for understanding and responding to risk. Then, looking beyond tort, the volume examines the contextual and cultural setting of different risks and how different legal systems seek to regulate them.

The volume draws on more than 25 leading scholars of private law and risk from around the world to develop a coherent and systematic study of risk. The legal systems included span the common law and civil law, large and small, codified and uncodified, as well as those with wider and narrower strict liability rules and causation rules: England and Wales, France, Sweden, Italy, Spain, the Netherlands, Chile, South Africa and Brazil.

*With contributions by Cristián A. Banfi (University of Chile), Bernardo Bissoto Queiroz de Moraes (University of Sao Paulo), Mia Carlsson (Stockholm University), Nadia Coggiola (University of Turin), Matthew Dyson (University of Oxford), Anton Fagan (University of Cape Town), Duncan Fairgrieve (University of Paris-Dauphine PSL), Richard Fentiman (University of Cambridge), Sandra Friberg (Uppsala University), Bianca Gardella Tedeschi (Università del Piemonte Orientale), María Paz Gatica (University of Chile), Ivo Giesen (Utrecht University), Michele Graziadei (University of Turin), Cyril Holm (Uppsala University), Elbert de Jong (Utrecht University), Marlou Overheul (Utrecht University), Ignacio Maria Poveda Velasco (University of Sao Paulo), Alistair Price (University of Cape Town), Otavio Luiz Rodrigues Junior (University of Sao Paulo), Albert Ruda (University of Girona), María Agnes Salah (University of Chile), Helen Scott (University of Oxford), Sandy Steel (University of Oxford), Jenny Steele (University of York), Simon Taylor (University Paris Diderot), Eduardo Tomasevicius Filho (University of Sao Paulo) and Véronique Wester-Ouisse (Deputy Prosecutor at the Court of Appeal of Rennes).*



**The European Convention on Human Rights as an Instrument of Tort Law**  
S. Somers

ISBN 978-1-78068-683-7  
xlvii + 372 pp. | hardback  
2018 | € 95 | \$ 114 | £ 90

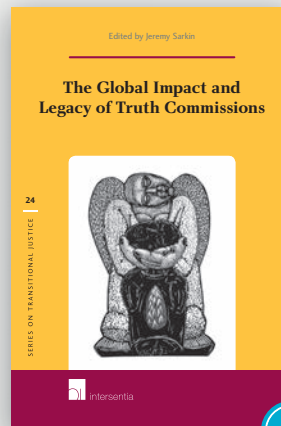


Tort law and human rights belong to different areas of law, namely private and public law. Nevertheless, the European Convention on Human Rights increasingly influences national tort law of signatory states, both on the vertical level of state liability and on the horizontal level between private persons.

An individual can appeal to the European Convention on Human Rights in order to challenge national tort law in two situations: where he is held accountable under national tort law for exercising his Conventions rights, and where national law does not provide effective compensation in accordance with Article 13. The second method is strongly connected with the practice of the European Court of Human Rights to award compensations itself on the basis of Article 41.

A compensation in national tort law is considered to be effective according to Article 13 when it is comparatively in line with the compensations of the European Court of Human Rights granted on the basis of Article 41. This raises the important question as to how compensations under Article 41 are made by the European Court of Human Rights.

*The European Convention on Human Rights as an Instrument of Tort Law* examines the entanglement of public and private and national and transnational law in detail and argues that while the Court uses a different terminology, it applies principles that are very similar to those of national tort law and that the Court has developed a compensatory practice that can be described as a tort law system.



**The Global Impact and Legacy of Truth Commissions**  
J. Sarkin (ed.)

*Series on Transitional Justice, Volume 24*  
ISBN 978-1-78068-794-0  
approx. 350 pp. | hardback  
2018 | € 75 | \$ 90 | £ 71



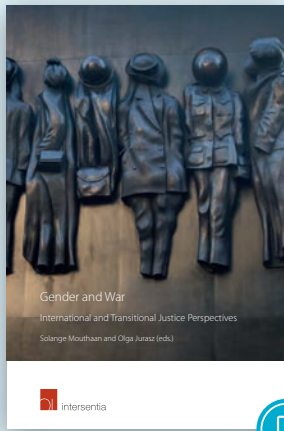
*The Global Impact and Legacy of Truth Commissions* emerges at a time when there is a confluence of two trends. The first is a growing critique of truth commissions as being unresponsive to the socio-economic needs of transitional societies as part of growing criticism of transitional justice as a whole. The second is the increasing use, salience, professionalism and ambition of truth commissions.

Thus, the book is published at a time when truth commissions are being

both doubted and reified like never before. In this context, the book's purpose is to understand the impact and legacy of these institutions over the past fifty years.

Bringing together many prominent voices on the topic, this book investigates what kind of impact and legacy (possibly 100) truth commissions have had on the societies in which they have taken place, and for future truth commissions the world over.

## Transitional Justice



**Gender and War**  
*International and Transitional  
Justice Perspectives*  
S. Muthaah and  
O. Jurasz (eds.)

ISBN 978-1-78068-686-8  
approx. 350 pp. | paperback  
2019 | € 75 | \$ 90 | £ 71



This book explores and challenges common assumptions about gender, conflict, and post-conflict situations. It critically examines the gendered aspects of international and transitional justice processes by subverting traditional understandings of how wars are waged, the power dynamics involved, and the experiences of victims. The book also highlights the gendered stereotypes that underpin the (mis) perceptions about gender and war in order to reveal the multi-dimensional nature of modern conflicts and their aftermaths.

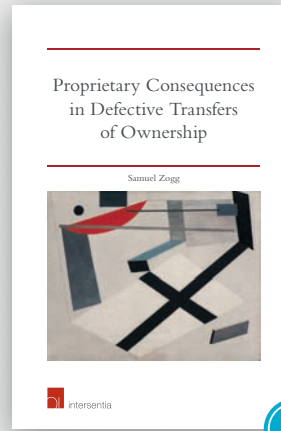
Featuring contributions from academics in law, criminology, international relations, politics and psychology, as well as legal practitioners in the field, *Gender and War* offers a unique and multi-disciplinary insight into

contemporary understandings of conflict and explores the potential for international and transitional justice processes to evolve in order to better acknowledge diverse and gendered experiences of modern conflicts.

SOLANGE MOUTHAAH is Associate Professor of Law at the University of Warwick. Her research interests focus on the gendered experiences of children affected by armed conflict and the restrictive interpretation of international criminal law in this area.

OLGA JURASZ is Senior Lecturer in Law at the Open University. Her research focuses on international law, human rights, gender and post-conflict reconstruction.

## Trust and Equity



**Proprietary  
Consequences in  
Defective Transfers  
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*An Analysis of English  
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ISBN 978-1-78068-824-4  
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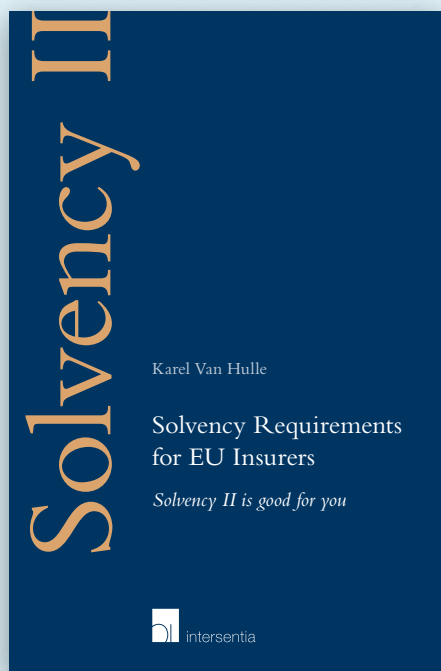


This book analyses proprietary restitution, at law and in equity, and inquires whether proprietary relief is available in defective transfers of property, such as mistaken payments. Refining the Birksian event-based classification of rights, it offers a coherent and rationalised approach to the transfer, creation and tracing of proprietary rights in general. The book sets out the current state of the law and discusses a vast body of case law.

It is argued that the scope of proprietary relief following defective transfers of property is quite limited. Legal or equitable title in the transferred property remains vested in the transferor if his intention to execute the transaction is virtually absent altogether. If only equitable ownership is

retained, a resulting trust comes into being. If legal and equitable ownership passes, the law of rescission might provide a power in rem which equips the respective party with a proprietary interest. Apart from that, however, no proprietary relief is available in defective transfer cases. In particular, constructive trusts have no role to play in this context.

*Proprietary Consequences in Defective Transfers of Ownership* is a comprehensive work of interest to academic and professional readers alike.



## Solvency Requirements for EU Insurers

*Solvency II is good for you*

K. Van Hulle

ISBN 978-1-78068-177-1

approx. 350 pp. | paperback

2019 | € 125 | \$ 150 | £ 119

*With a foreword by Gabriel Bernardino,  
Chairman of EIOPA*

“

**Solvency Requirements for EU Insurers provides a unique insight into the complex world of insurance and will be useful to risk managers, actuaries, accountants, lawyers and, more generally, all those involved with or interested in insurance and in the operation of the insurance market.**

”

Solvency II (Directive 2009/138/EC) regulates the solvency requirements for EU insurers and reinsurers. It aims to reduce the risk that an insurer would be unable to meet claims, to provide early warning to supervisors so that they can intervene promptly if capital falls below the required level, and to promote confidence in the financial stability of the insurance sector. Solvency II not only sets out the capital requirements to guarantee policyholder protection, but also includes measures to stimulate risk management and good governance and to improve transparency.

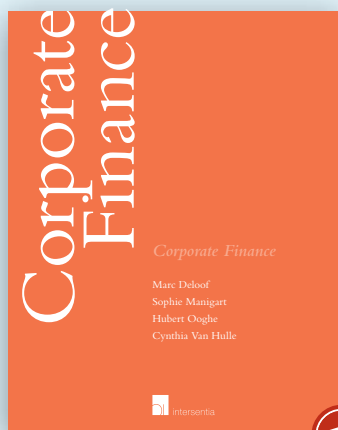
This book provides a thorough and well-structured overview of the regulatory regime and how it will affect insurers, re-insurers and other market participants, including policyholders. The author, who was closely involved in the making of Solvency II, offers all the necessary insights and explanations to better understand the new solvency regime. While Solvency I only sets basic solvency standards, Solvency II is more sophisticated introducing a risk based solvency capital regime and modernising EU insurance regulation thus putting much emphasis on high quality prudential supervision. This improves the protection of policyholders, creates an incentive for good risk

management, recognizes the economic reality of a group, establishes market transparency and provides for a modern risk based supervisory regime, in short, as the book's subtitle already suggests, Solvency II is good for you.

---

In his function as Head of Insurance and Pensions at the European Commission (until March 2013) Professor KAREL VAN HULLE played an essential role in the development of the new risk based solvency capital regime for (re) insurers that lead to the Solvency II Directive. In that capacity he also represented the EC within EIOPA and was a member of the Technical Committee of the IAIS. Today Professor Van Hulle lectures at the Economics and Business Faculty of the KU Leuven (Belgium) and at the Economics Faculty of the Goethe University in Frankfurt (Germany), where he is also Executive Director of the International Centre for Insurance Regulation.

# Business and Finance



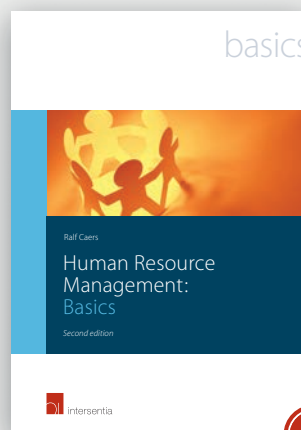
## **Corporate Finance** M. Deloof, S. Manigart, H. Ooghe and C. Van Hulle

ISBN 978-1-78068-654-7  
approx. 450 | paperback  
2018 | € 99 | \$ 119 | £ 94

This textbook on Corporate Finance deals with the different sources of funding and the capital structure of corporations (excluding financial institutions), the decisions that managers can take to increase enterprise value as well as the tools and analysis used to allocate financial resources.

The authors link theoretical insight to practical cases. The objectives and functions of corporate finance are discussed in an introductory chapter. The following chapters cover: fundamental financial valuation principles, investment analysis and the minimum investment return requirement, capital structure and dividend policy, long-term and medium-term financing, working capital as well as some specific financial topics such as valuation of companies, international financial policy, financing

of growth companies, mergers and acquisitions, etc. While written for students, this book is also appealing to financial professionals such as financial directors, credit rating agencies, corporate managers in financial institutions as well as accountants and auditors.



## **Human Resource Management: Basics** *2nd edition* R. Caers

ISBN 978-1-78068-771-1  
xiv + 278 pp. | paperback  
2018 | € 40 | \$ 48 | £ 38

This handbook is an introduction to Human Resource Management, with a clear focus and without side-tracks. It discusses topics on recruitment and selection, provides answers to how socialisation and leadership can be applied to improve performance and helps to deal with dismissal of staff. The handbook is aimed at practitioners, with practical hints, examples and advice, that are always grounded by science.

In today's organisations, HR occurs both within and outside of the HR-department. Just think about the daily leadership that is exerted by direct supervisors. This handbook therefore has two main goals. First, it provides its readers with the knowledge that can help them to become better employees and supervisors in organisations.

Second, it provides the readers with a sufficiently strong background that enables them to study domains of HRM more in-depth. The handbook thus not only focuses on academic and professional bachelor students, but is open to everyone who works for an organisation.

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