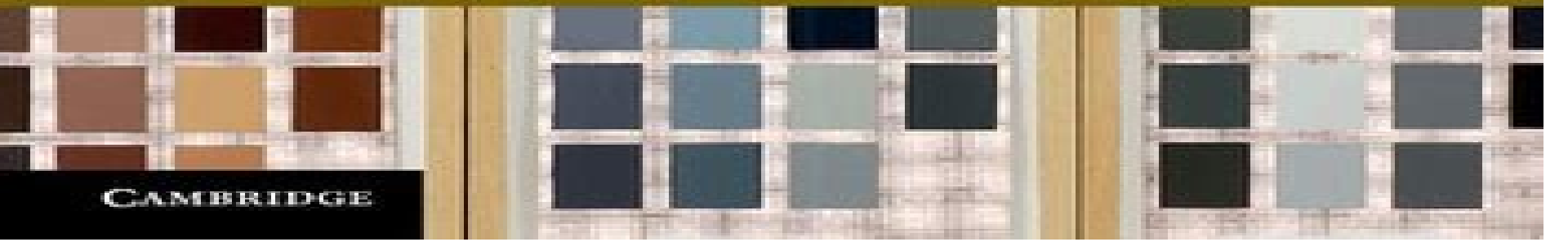




# The Transformation of European Private Law

Harmonisation, Consolidation,  
Codification or Chaos?

Edited by James Devenney and Mel Kenny



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# Transformation Towards European Private Law

**Leone Niglia**



## **Transformation Towards European Private Law:**

**The Structural Transformation of European Private Law** Leone Niglia, 2023-06-15 This book proposes a new analysis of the transformation of Europe through integration exactly 30 years after the beginning of transformation scholarship It consists of a reconstruction of the development and present condition of European integration in relation to private ordering Looking at the interface between on the one hand the EU constitutional order and on the other hand private ordering the book recounts three major structural transformations over the last six decades Delving into the private law areas most exposed to the current modernisation wave consumer law internal market lex mercatoria digitisation artificial intelligence data protection standardised contracts finance and political economy and labour the book critically explores a reconfiguration of Europe's constitutional structures relative to and that results from what to some appears to be an almost irresistible rise of private ordering through a transformed hermeneutics balancing This is a magisterial survey of European law European private law and comparative law seen through a pathbreaking comparative methodology labelled juridical comparative hermeneutics within civil law systems and across the civil common law divide which offers innovative analytical tools that afford a deep understanding of the evolution of the disciplines Transformation Towards European Private Law, 2015 New Directions in European Private Law Takis Tridimas, Mateja Durovic, 2021-05-20 This book brings together leading scholars and practitioners to explore contemporary challenges in the field of European private law identify problems and propose solutions The first section reassesses the existing theoretical framework and traditional legal scholarship on which European private law has developed The book then goes on to examine important and practical topics of geo blocking and standardisation in the context of recent legislative developments and the CJEU case law The third section assesses the challenging subject of adequate regulation of online platforms and sharing economy that has been continuously addressed in the recent years by European private law A fourth section deals with the regulatory challenges brought by an increasing development of artificial intelligence and blockchain technology and the question of liability The final section examines recent European legislative developments in the area of digital goods and digital content and identifies potential future policy directions in which the European private law may develop in the future Constitutionalization of European Private Law Hans-W. Micklitz, 2014 One of the most topical questions in the legal systems is whether and to what extent fundamental rights impact our rights and obligations in our contractual relations The European Union has integrated the Charter of Fundamental Rights into the Treaties of Rome and Lisbon This book highlights whether and to what extent fundamental rights affect the position of citizens generally and in various fields of law such as private contractual law labour law financial services intellectual property rights and the judicial protection in courts *The Politics of Justice in European Private Law* Hans-W. Micklitz, 2018-11-15 *The Politics of Justice in European Private Law* intends to highlight the differences between the Member States concepts of social justice which have developed historically and the distinct European concept of access

justice Contrary to the emerging critique of Europe's justice deficit in the aftermath of the Euro crisis this book argues that beneath the larger picture of the Monetary Union a more positive and more promising European concept of justice is developing European access justice is thinner than national social justice but access justice represents a distinct conception of justice nevertheless Member States or nation states remain free to complement European access justice and bring to bear their own pattern of social justice

*The Foundations of European Private Law* Roger Brownsword, Hans-W Micklitz, Leone Niglia, Stephen Weatherill, 2011-09-19 There remains an urgent need for a deeper discussion of the theoretical political and federal dimensions of the European codification project While much valuable work has already been undertaken the chapters in this volume take as their starting point the proposition that further reflection and critical thought will enhance the quality and efficacy of the on going work of the various codification bodies The volume contains chapters by representatives of the Common Frame of Reference the Study Group and the Acquis Group as well as by those who have not been involved in particular projects but who have previously commented more distantly on their work for instance those belonging to the Trento Group and the Social Justice Group The chapters between them represent the most comprehensive attempt so far to survey the state of the codification project its theoretical political and federal foundations and the future prospects for enforcement and compliance

Judicial Cooperation in European Private Law Fabrizio Cafaggi, Stephanie Law, 2017-05-26 Notwithstanding recent increases in the scope for judicial cooperation and dialogue between European courts little research has been undertaken into the impact of the jurisprudence of the European Court of Justice and the dialogue that arises therefrom in national legal systems between courts and regulators This coherent collection of original chapters provides unique insights into these developments with a particular focus on consumer law from a broad range of stakeholders including academics and judges from the EU and the US

Pluralism and European Private Law Leone Niglia, 2013-01-29 European private law has hitherto tended to be conceptualised firmly around ideas of unity and harmony Yet the discourse within other areas of European law notably constitutional law scholarship visibly adopts pluralist perspectives This book seeks to bridge the gap between public and private law by looking at European private law from various pluralist positions and by investigating old and new ways in which to understand legal pluralism in general It fills a gap in the wide literature on legal pluralism as the first book entirely dedicated to offering an insight into legal pluralism from the vantage point of the private law domain The book addresses critically issues such as what pluralism really means in private law and what conceptions of pluralism it embodies including discussion about the outer boundaries of any of the pluralist understandings Contributions address comparative critical historical theoretical and normative aspects The book provides an opportunity to engage innovatively with problematic conceptual issues which inform the work of European private law scholars including the debate on the Common Frame of Reference Project of the European Commission

**Regulating Investor Protection under EU Law** Antonio Marcacci, 2018-06-27 This book analyzes the legal system for the protection of retail investors under

the European Union law of investment services It identifies the regulatory leitmotiv driving the EU lawmaker and ascertains whether and to what extent such a system is self sufficient using a set of EU made and EU enforced rules that is essentially different and autonomous from the domestic legal orders In this regard the book takes a double perspective comparative and intra firm Given the federal dimension of the US legal system and thus the role model it plays vis vis the EU the book compares the two systems To fully highlight the existing gaps and measure how self sufficient the EU system is against its American counterpart the Union Federal level as such is analyzed i e detached from the national in EU terms and State in US terms level Regulating Investor Protection under EU Law also showcases the unique intra firm perspective from a European investment firm and analyzes how EU produced public law rules become a set of compliance requirements for investment services providers This within the firm angle gauges the self sufficiency of the EU system of retail investor protection from the standpoint of an EU regulated entity The book is intended for both compliance professionals and academic scholars interested in this topic while also including illustrative sections intended to provide a broader regulatory view for less experienced readers

**Constructing Modern European Private Law** Ivan Sammut, 2016-09-23 The Europeanisation of European Private Law EPL is an ongoing process that has gained momentum with the communitarisation of judicial cooperation in civil and commercial matters with the Amsterdam Treaty This work examines the governance structure of EPL It proves that more can be achieved towards the Europeanisation of private law through a new approach involving innovative modes of governance in EPL In order to test this hypothesis it is necessary to look at this exercise from three different angles The first angle provides a study about the tools and the context with which one can further Europeanise private law and bridge the gaps between the main legal families common law and civil law The second angle encompasses a study of what has and what has not been achieved in the development of EPL by looking at both EU and non EU initiatives The final angle then examines the role of governance in the future development of EPL As such this study confirms that the further Europeanisation of EPL requires a multi level mode of governance confirming the traditional supra national Community Method mode of governance in EPL with the introduction of intra governmental innovative methods in EPL such as the Open Method of Coordination OMC and soft law These innovative modes together with the traditional mode of governance can take forward the development of EPL so that it can better serve the needs of the European legal community in the future

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