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**Project acronym: CoPECL**

**Project full name: Joint Network on European Private Law**

**Contract no. 513351**

**Instrument: Network of Excellence**

**Final Publishable Executive Summary**

Period covered: from 01/05/2007 to 30/04/2008      Date of preparation: **11.12.2009**

Start date of project: 01/05/2005

Duration: 48 Months

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Project coordinator organisation name: University of Bielefeld

Revision:

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## **Executive Summary**

The six-volume ‘Draft Common Frame of Reference (DCFR) for European Private Law’ which was elaborated together with a corona of evaluative works on, e.g., terminology, underlying principles and economic aspects is the core objective achieved by the CoPECL Network of Excellence. Pooling input from more than 150 comparative lawyers from all jurisdictions of the EU, the DCFR and its evaluative corona aim to establish a common point of reference and a basis of understanding for lawyers in the EU.

In particular, the DCFR forms a toolbox for the EU legislator. It is presented in the form of principles (“Common Principles of European Contract Law” = CoPECL), and includes definitions and model rules. These principles are supplemented by comments and comparative information. The work is based on national laws, the existing EU Acquis and relevant international instruments.

The results of the CoPECL Network, in particular the DCFR, have attracted extraordinary attention from the academic and the policy-making community. Dozens of conferences and hundreds of articles in all leading law journals have dealt with the subject. The European Council, the European Parliament and the European Commission have all been considering how the DCFR can best be adapted and utilised to improve coherence in contract law in the EU. The European Commission has appointed a high-ranking, 18-member expert group to examine the possibility of creating an ‘optional European contract law’ on the basis of the DCFR. The group, which mainly consists of members of the CoPECL Network, is now carrying forward the work on the DCFR. The Commission is hoping that harmonised contract solutions will help tackle what it calls ‘bottlenecks’ in the Single Market.

In order to ensure the sustainability of the Europe-wide debate initiated by the CoPECL Network, the participating researchers are now seeking to found, together with many other research institutions, a “European Law Institute” as a common platform for the development of

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European Law. To this end, an Association for a European Law Institute was founded in March 2010 which unites researchers from more than 100 leading research institutions in Europe and which will contribute to further boost the creation and improved functioning of a European Research Area in the field of law and legal science.

## **Publishable Summary (Project Period: Mai 2005-April 2009)**

### **1. Project Objectives and Results Achieved**

The CoPECL Network of Excellence had the following four objectives of which objective (a) had overarching character.

- (a) Elaboration of a Draft Common Frame of Reference (DCFR) for European Contract Law
- (b) Overcoming Research Fragmentation in the European Research Area
- (c) Guidance to Legislators, Legal Practitioners and Academics
- (d) Dissemination of Knowledge and Durable Research Integration

#### **a) Elaboration of a Draft Common Frame of Reference (DCFR) for European Contract Law**

The core task of the CoPECL Network of Excellence was to elaborate a draft and create building material for the “Common Frame of Reference” for European Contract Law as described in the European Commission’s action plan (COM [2003] 68 final) and the many subsequent communications, in particular COM (2004) 651 final, COM (2005) 456 final and COM (2007) 447 final. The European Parliament stated in its Resolution of 23 March 2006 that the project of a Common Frame of Reference is “by far the most important initiative underway in the field of civil law”.

During the first project years the CoPECL Network prepared drafts for core parts of the Draft Common Frame of Reference (DCFR). At the same time, in parallel to the research and drafting work, practitioners and stakeholders were involved in order to ensure that the drafts met their needs. The input received from their side was incorporated into the CoPECL drafts. The drafts were also evaluated by specific research groups with regard to their philosophical underpinnings and their economic impact.

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A first consolidated version of the Draft Common Frame of Reference (DCFR) was delivered to the European Commission in December 2007. It was then possible for a large amount of input, received from all sides, to be incorporated into the DCFR. During the last project year, in December 2008, the CoPECL Network delivered the final version of the DCFR to the European Commission. Core parts of the DCFR have also been published online and in print, in an outline edition, in March 2009 and a full version in October 2009.

The DCFR elaborated by the CoPECL Network forms a toolbox for the EU legislator. It is presented in the form of principles (“Common Principles of European Contract Law” = CoPECL), and includes definitions and model rules. These principles are supplemented by comments, comparative information and evaluative analysis. The work is based on national laws, the existing EU Acquis and relevant international instruments. In addition to the DCFR, several works of evaluative and supportive character have been finalised and published. Among these, works on the relevant *acquis communautaire*, specific rules for insurance law, terminology, underlying principles of contract law, a case law assessment and economic aspects are included.

Examples of the main publications in print on the DCFR and its evaluative corona are:

**Principles, Definitions and Model Rules of European Private Law**  
Draft Common Frame of Reference (DCFR).  
Full Edition

Edited by Study Group on a European Civil Code/Research Group on EC Private Law (Acquis Group)



2009  
6563 pages

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**Principles of the Existing EC Contract Law (Acquis Principles)**

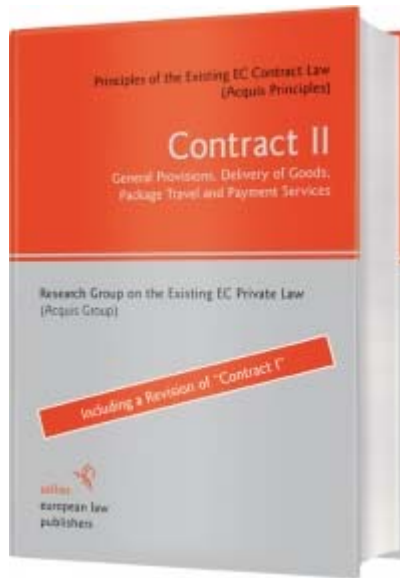
**Contract II**

General Provisions, Delivery of Goods, Package Travel and Payment Services

Edited by Research Group on the Existing EC Private Law (Acquis Group)

2009

lviii, 518 pages



**Principles of European Insurance Contract Law (PEICL)**

(PEICL)

Edited by Project Group "Restatement of European Insurance Contract Law"

October 2009

lxviii, 668 pages



**European Contract Law**

Materials for a Common Frame of Reference: Terminology, Guiding Principles, Model Rules

Edited by Association Henri Capitant & Société de législation comparée

2008

XXXIV, 614 pages



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## **A Factual Assessment of the Draft Common Frame of Reference**

Edited by Common Core Evaluating Group,  
Luisa Antonioli, Francesca Fiorentini

2010

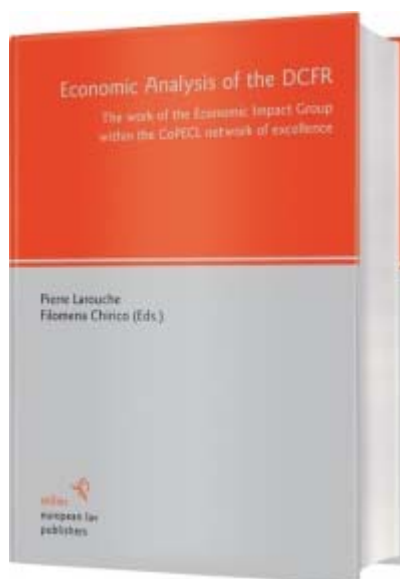


## **Economic Analysis of the DCFR** The work of the Economic Impact Group within CoPECL

Edited by Pierre Larouche, Filomena Chirico

2010

416 pages



The European Parliament supported the ongoing research and plans of the European Commission to turn the DCFR, produced by the CoPECL Network, into a political “Common Frame of Reference” through several resolutions. The Parliament also held several hearings in order to inform its members of the ongoing activities towards a Common Frame of Reference. Leading researchers from the CoPECL Network were invited as speakers to these hearings. Moreover, the Parliament organised a public launch event (21 January 2008) where the Co-

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PECL team leaders handed over the DCFR to EP Vice-President Diana Wallis and the Slovenian Minister of Justice Lorenzo Sturm, representing the EU Presidency.

The results of the CoPECL Network, in particular the DCFR, have attracted extraordinary attention from the EU Institutions and Member States. Here, a few examples only must suffice to illustrate this. The EU Justice and Home Affairs Council (18 May 2008) dealt with the DCFR. According to its conclusions, the Common Frame of Reference, to be elaborated on the basis of the CoPECL research results, should function as a set of non-binding guidelines to be used by lawmakers at Community level as a common source of inspiration or reference in the lawmaking process. Even the European Council, thus the heads of state or government of the EU member states (19/20 June 2008), expressly dealt with the project and “underlined the need to rapidly follow up on the project to establish a common frame of reference for European contract law” (No. 20 of the Council Conclusions). The Ministry of Justice of the UK issued a report on the DCFR. The French and the Swedish EU Presidencies organised conferences on the DCFR in Paris (October 2008) and Stockholm (October 2009)

At a hearing before the European Parliament's Legal Affairs Committee on 12 January 2010 Viviane Reding, the Vice President of the European Commission and Commissioner for Justice, praised the DCFR as a "wonderful piece of work" and as the "embryo for a European Civil Code" to which one day we should arrive.

On 26 April 2010, the European Commission set up an expert group on a Common Frame of Reference in the area of European contract law (Commission Decision 2010/233/EU, see Official Journal of the European Union L 105/109 of 27.4.2010; first page reproduced below). This expert group has the task to elaborate, on the basis of the DCFR produced by the CoPECL Network of Excellence, a draft European Contract Law. The majority of the members of this expert group have been chosen from the members of the CoPECL Network. As can be seen from the aforementioned Commission's decision, the results of the CoPECL Network are expressly mentioned in the Official Journal of the EU as basis for policy making:



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## Extract from the Official Journal mentioning the CoPECL results as policy basis

(parts related to the CoPECL research highlighted yellow)

27.4.2010

EN

Official Journal of the European Union

L 105/109

### COMMISSION DECISION

of 26 April 2010

setting up the Expert Group on a Common Frame of Reference in the area of European contract law

(2010/233/EU)

THE EUROPEAN COMMISSION,

principles, definitions and model rules to be used by the lawmakers at Union level to ensure greater coherence and quality in the lawmaking process.

Having regard to the Treaty on the Functioning of the European Union,

(6) The Europe 2020 strategy for smart, sustainable and inclusive growth<sup>(3)</sup> recognises the need to make it easier and less costly for businesses and consumers to conclude contracts with partners in other EU countries, inter alia, by making progress towards an optional European Contract Law.

Whereas:

(1) The European Council at Tampere in October 1999 requested the Commission to study the need to harmonise legislation in the area of substantive civil law.

(7) It is therefore necessary to set up a group of experts in the area of civil law, and in particular contract law, and to define its tasks and its structure.

(2) The Commission issued a Communication on European contract law<sup>(1)</sup> in 2001 with the purpose of launching a process of consultation on potential problems and actions in the area of contract law, the responses to which indicated a clear consensus on the need to improve the consistency of the existing Union contract law legislation in order to ensure its uniform application and a smooth functioning of the internal market.

(8) The group should assist the Commission in preparing a proposal for a Common Frame of Reference in the area of European contract law, including consumer and business contract law, using the Draft Common Frame of Reference as a starting point and taking into consideration other research work conducted in this area as well as the Union *acquis*. The group should, in particular, help the Commission select those parts of the Draft Common Frame of Reference which are of direct or indirect relevance for contract law, and restructure, revise and supplement the selected contents.

(3) The Commission issued an action plan entitled 'A more coherent European contract law'<sup>(2)</sup> in 2003 which proposed to improve the quality and coherence of Union contract law legislation through the establishment of a Common Frame of Reference, which would provide the Union with a non-binding reference tool containing principles, definitions and model rules to be used for the revision of existing Union legislation and the preparation of new legislation in the area of contract law.

(9) The group should be composed of highly qualified experts with competence in the area of civil law, and in particular contract law, appointed in a personal capacity.

(4) As a preparatory measure, the Commission financed in 2005, through a grant under the 6th Framework Programme for Research, a European academic network of researchers to carry out in-depth legal research which led to an academic Draft Common Frame of Reference (hereinafter referred to as 'the Draft Common Frame of Reference').

(10) Rules on disclosure of information by members of the group should be provided for, without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom<sup>(4)</sup>.

(5) The Stockholm Programme for 2010-2014 invites the Commission to submit a proposal on a Common Frame of Reference in the area of European contract law which should be a non-binding set of fundamental

(11) Personal data relating to members of the group should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(5)</sup>.

<sup>(1)</sup> OJ C 255, 13.9.2001, p. 1.

<sup>(2)</sup> OJ C 63, 15.3.2003, p. 1.

<sup>(3)</sup> COM(2010) 2020 final, p. 23.

<sup>(4)</sup> OJ L 317, 3.12.2001, p. 1.

<sup>(5)</sup> OJ L 8, 12.1.2001, p. 1.

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### **b) Overcoming Research Fragmentation in the European Research Area**

Before the start of the CoPECL Network in 2005, the European research landscape, particularly in the area of contract law, was fragmented into different international groups which carried out their research independently and with very few exchanges of information.. In the first years, the CoPECL Network made good progress in order to overcome this fragmentation by integrating many of these groups in the process of developing and evaluating the Common Frame of Reference. When the first drafts of the DCFR came out, all CoPECL participants and practically all leading scholars of European private law engaged in a Europe-wide – rather controversial – discussion on the merits of the endeavour. The Europeanisation of private law has been boosted enormously by the CoPECL Network. Europe’s scholars are now united by a common research effort of developing, evaluating, criticising and some even fighting the forthcoming Common Frame of Reference. The CoPECL Network was very careful in producing pluralist results by simultaneously elaborating the DCFR and many evaluative studies (including rather critical ones). In doing so, the output of the Network inspired and fed a broad and multi-faceted discussion which, in particular, allows policy-makers to choose between well thought-out policy options. This again substantially increased the Europe-wide exchange and co-operation within and beyond the network.

### **c) Guidance to Legislators, Legal Practitioners and Academics**

The intention of the DCFR on European contract law is to benefit legislators, legal practitioners and academics. The core idea is that the drafts should contain substantive progress towards a coherent European terminology and drafting style.

The aforementioned position of the Justice and Home Affairs Council (18 May 2008) very much confirmed this function by stating that the Common Frame of Reference shall become a set of non-binding guidelines to be used by lawmakers at Community level as a common source of inspiration or reference in the lawmaking process. The DCFR also inspired the European Commission in its legislative work in the field of Consumer Law. In particular the proposal of the horizontal directive on consumer rights and, furthermore, its subsequent discussion in Council and European Parliament were inspired by the DCFR. The European Par-

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liament even commissioned a study on the differences between the draft directive and the DCFR.

Several Member States made use of drafts prepared for the Common Frame of Reference for legislative purposes. CoPECL researchers have been invited to meetings of national codification committees in several countries (e.g. Czech Republic, Poland, Hungary). Also in academia the CoPECL findings attract enormous interest. Hundreds of articles and books have been published and dozens of conferences are taking place throughout Europe and beyond. The DCFR and the accompanying materials are taught at many universities.

#### **d) Dissemination of Knowledge and Durable Research Integration**

In order to foster a Europe-wide discussion of the research results, the CoPECL Network strives for wide dissemination of its core results. The Network's publication policy aimed for a very early publication of preliminary results. Even the preliminary drafts for the DCFR were made accessible online, and many also in print. This kept everyone up to date and enabled the participation of all researchers and the public in the development of a real European research area in the field of European contract law. Such a culture of publishing intermediate results, inviting the public for comments and participation was a real innovation in this (often rather conservative) field of academic work. The project thus improved the European research environment towards a European level playing field through innovative methods.

A further innovation was the publication of a preliminary version of the core results, thus the interim edition of the DCFR, in a low-priced mass edition in print (9.90 €) and online (free of charge, allowing full-text search and several other database applications). Many thousands of copies of the print edition were sold. The number of downloads of the online versions (which were presented both for classical PC databases and for smart phones) lies much higher. This enabled the participation of public interest in the development of a common starting point for the further development of European contract law.

The outline edition of the final version of the DCFR has been published online (for free) and in a low-priced mass edition in print (14.90 €), of which, again, thousands of copies have been sold. The 6000 pages full edition of the DCFR, which also is published in print and in law databases, is available in the vast majority of law libraries in Europe. A free online version,

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possibly hosted by the European Commission, is under preparation. Moreover, ways are being sought to translate the DCFR (the full edition) into many other languages (in particular French [where a translation of Books I-III is already available], German, Italian, Polish, and Spanish) and to ensure that the translated versions online are also available free of charge.

In order to create a durable European research area for contract law, the CoPECL network has maintained its central infrastructure beyond the project timeframe. To this end, the project webpage will continue to be hosted and maintained by the European Legal Studies Institute at the University of Osnabrück (which is one of the CoPECL Participants). The European Law Academy (also one of the CoPECL Participants) will organise an annual conference on European Contract Law where the CoPECL participants will present the results of their ongoing research and discuss it with the public. The first of these annual conferences took place on 18 and 19 March 2010. This structure will be backed and surrounded by several agreements on research and exchange among the participants.

Finally the CoPECL participants seek to found, together with many other research institutions, a “European Law Institute” as a common platform for the development of European Law. To this end, an Association for a European Law Institute was founded in March 2010 which unites researchers from more than 100 leading research institutions in Europe and which will contribute to boost further the creation and improved functioning of a European Research Area in the field of law and legal science.

## **2. Contractors and Participants**

The CoPECL Network, founded in May 2005, comprises of 17 universities, institutions and other organisations, as well as over 150 researchers operating in all EU Member States. Contractors are: the Universities of Amsterdam, Bergen, Bielefeld (Co-ordinator), Edinburgh, Gothenburg, Graz, Innsbruck, Osnabrück, Paris-Sud, Salzburg, Tilburg, Trieste, Turin and Utrecht, and furthermore, the Academy of European Law (ERA), the Association Henri Capitant and the Max Planck Institute for Foreign Private Law and Private International Law. In order to strengthen the Network, with regard to the new Member States, the University of Krakow had been assigned to take over several tasks from other participants (i.e. Bielefeld and Osnabrück).

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These contractors represent, among others, the following research initiatives active in the field of European contract law:

- The Study Group on a European Civil Code;
- The Research Group on the Existing EC Private Law, or "Acquis Group";
- The Project Group on a Restatement of European Insurance Contract Law, or "Insurance Group";
- The Association Henri Capitant together with the Société de Législation Comparée and the Conseil Supérieur du Notariat;
- The Common Core Group;
- The Research Group on the Economic Assessment of Contract Law Rules, or "Economic Impact Group";

More information, including a list of participating researchers and links to the participating research initiatives, can be obtained from the Networks public website ([www.copecl.eu](http://www.copecl.eu)).

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