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What's New in European Property Law?

An Overview of Publications in 2019–2021

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I. Introduction

This article is the third edition of the "What's New in European Property Law?" series.[1] As such, it endeavors to present a synopsis of publications in the area of European property law that were published between 2019–2021. These publications are grouped in ten categories: (i) property law theory, (ii) environment, sustainability, and the circular economy, (iii) property law in a digital and globalizing world, (iv) comparative property law, (v) property law conference volumes and libri amicorum, (vi) European succession regulation & matrimonial property law, (vii) immovable property law, (viii) on the intersection of property law & contract law, (ix) cultural property law, and (x) miscellaneous.

All synopses are the result of a preceding decision-making process in the course of which it is determined whether a given publication can be included in the synopsis or not. Awareness of the decision-making process is therefore key to understand the scope of the synopsis. In the interest of guaranteeing a certain degree of continuity throughout the series, it was attempted to apply the same selection criteria that were used to generate the overviews of the previous two editions, to the largest extent possible. Generally speaking, this implies that contributions had to show a substantive European dimension. For the more 'classic' areas of property law, such as comparative property law, immovable property, succession, and matrimonial property law, this criterion indeed has proven to be a useful distinguishing criterion. Yet, for contributions relating to for instance property law theory, sustainability, the circular economy, digitalization, or globalization, this criterion provided little help to demarcate relevant publications.

1 Caroline S. Rupp, 'What's New in European Property Law? An Overview of Publications in 2015/2016' EPLJ 6 (2017), pp. 87–110. Also see Caroline S. Rupp, 'What's New in European Property Law? An Overview of Publications in 2017/2018' EPLJ 8 (2019), pp. 102–128.

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After all, these areas have in common that they are not limit by national or even European boundaries. Therefore, rather than requiring a substantive European dimension, any European point of contact was deemed sufficient to allow inclusion in this synopsis. For example, a publication that was published in a European journal was included under the condition that it did not primarily focus on jurisdictions outside of Europe. In addition, the decision was taken to exclude all articles that were published in non-legal journals. It goes without saying that the same holds true for articles published in the EPLJ.

As to the publications that survived the application of the selection criteria, it is to be noted that this synopsis is unfortunately unable to fully embrace the richness of legal argumentation and scholarly brilliance contained in these publications. Rather than providing an in-depth review, a scenic view is presented to capture the full beauty of the newest European property law scholarship, which hopefully encourages interested readers to access the publications that spark their personal interest in order to explore the richness of thought that these publications have to offer.

II. Property Law Theory

There is an increasingly wealthy abundance of property law research that aims attention at property law theory through various aspects such as social justice, ethics, philosophy, theology, politics, and economics. Yet, to a considerable extent, these contributions still focus on a non-European (cultural) background. The transfer of the debate to a European background is achieved by Rachael Walsh, who examines property law in the light of social justice.[2] For this purpose, Walsh uses the articles of the Irish Constitution that concern the right to property, which strike a deliberate balance of guarding property rights while also fostering social justice. These articles become as it were a test object to combine constitutional doctrinal research, including for instance an examination of the application of proportionality and fairness in the relevant Irish case law, with insights from "progressive property", so that this inspirational research does not only enrich constitutional property lawyers but also proponents of "progressive property".

Jean-Philippe Robé places the property law discussion in the context of politics, globalization, and economics.[3] Arguing that the "world power system" is

2 Rachael Walsh, *Property Rights and Social Justice* (Cambridge University Press 2021, 320 pp.).
3 Jean-Philippe Robé, *Property, Power and Politics. Why We Need to Rethink the World Power System* (Cambridge University Press, 2021, 416 pp.).

flawed and requires a thorough review to make the world more sustainable, Robé provides a thought-provoking analysis of the role of property as a main pillar of this "power system". This analysis does not limit itself to the legal concept of property but also addresses its role in the development of the state and democracy as well as its constitutional protection. It is interesting to note that rather than understanding ownership as the most exclusive right over a thing, Robé defines ownership through its *erga omnes* effect. In the second part of the book, the focus positions to the effect of the great power exercised by large firms and corporations on the "world power system", which is derived from their entitlement to a generous set of property rights.

A legal-philosophical account of property rights is presented by J. E. Penner, who identifies existing pitfalls in the theories that underlie property rights. These relate to their morphology and rationale and include a discussion of the rights to exclude and use while also taking into account the tort of nuisance.[4] The addressed theories concern the influential bundle-of-rights theory, the nominalist theories, as well as the well-known theories developed by Hohfeld and Kant, which are one after the other subjected to a comprehensive critical analysis.

III. Environment, Sustainability, and the Circular Economy

Without a doubt, one vital field of property law research that has gained significant momentum in the past years concerns itself with the protection of the environment, sustainability questions, and the circular economy. Without limiting themselves to property law alone, Bram Akkermans and Gijs van Dijck have together edited a book on sustainability in the wider context of private law.[5] The book contains eight contributions from researchers associated with the Maastricht European Private Law Institute, three of which have chosen a property law angle. These original contributions stem from Agustín Parise ("Preliminary Reflections on Paradigms, Ownership, and Ecology, pp. 17–37), Bram Akkermans ("Sustainable Property Law – Towards a Revaluation of Our System of Property Law", pp. 37–59), and Jill Robbie ("Moving Beyond Boundaries in the Pursuit of Sustainable Property Law", pp. 59–79).

4 J. E. Penner, *Property Rights. A Re-Examination* (Oxford University Press 2020, 256 pp.).

5 Bram Akkermans and Gijs van Dijck, *Sustainability and Private Law* (Eleven International Publishing 2020, 192 pp.).

Within the broader sustainability debate, Shelly Hiller Marguerat concentrates on the destructive exploitation of the world that cooccurs with the unwarranted destruction of private property rights.[6] To develop answers to these pressing issues, the author first copiously explains the (societal) function of private property rights and then points to the proliferating case law of the European Court of Human Rights regarding Article 1 of the First Protocol to the ECHR as evidence for a growing tendency of undermining private property rights in practice. Based on methods of resolution found especially in the philosophy of John Locke, Hiller Marguerat develops a refreshing responsibility-based solution to the depicted problems.

Article 1 of the First Protocol to the ECHR also takes a central role in an article authored by Bonnie Holligan, which discusses the judgment of the UK Supreme Court in case *R (on the application of Mott) v. Environment Agency* [2018] UKSC 10.[7] The right to property as enshrined in this provision is subjected to doctrinal research through the angle of environmental protection and in particular ecological exploitation. Holligan introduces the *Mott* case by rendering the case facts and she critically evaluates the judgment given by the Supreme Court, whereby the "excessive burden" criterion is specifically highlighted.

A non-static approach to property rights can be found in an engaging article by Emilie Ylihelio, who provides a thorough analysis of emission units through climate and property law as well as through "financial market regulation".[8] Most relevant to property lawyers is perhaps Ylihelio's examination of how the right of ownership relates to emission units and why this right, rather than being static, is in a state of motion. Her assessment of the right of ownership is inspired by Finnish property law theory.

The circular economy is showcased in a book edited by Bert Keirsbilck and Evelyne Terryn, which assembles 16 contributions from researchers across Europe.[9] A quarter of these contributions have a property law dimension. They discuss the circular economy from the perspective of Belgian law (Annick de Boeck hereby focusses on movables (pp. 185–201), while Benjamin Verheye concen-

6 Shelly Hiller Marguerat, *Private Property Rights and the Environment. Our Responsibilities to Global Natural Resource* (Springer International Publishing 2019, XIV, 477 pp.).

7 Bonnie Holligan, 'Human rights and the moralities of property. Participation, obligation and value in *R (on the application of Mott) v. Environment Agency*' Journal of Property, Planning and Environmental Law 11 no. 3 (2019), pp. 176–185.

8 Emilie Ylihelio, 'The Variable Nature of Ownership of Emission Units in the Intersection of Climate Law, Property Law, and the Regulation of Financial Markets' Climate Law 11 (2021), pp. 45–75.

9 Bert Keirsbilck and Evelyne Terryn (eds), *Consumer Protection in a Circular Economy* (Intersentia 2019, xi, 347 pp.).

trates on immovable property (pp. 241–287)), movables under Slovenian law (Petra Weingerl and Janaj Hojnik, pp. 225–240), and through the lens of immovables under Spanish law (Francisco de Elizalde, pp. 303–320).

Inspired by the potential of the circular economy, Anne Barbara Bottomley researches the ability of "community ownership" to revive property law.[10] Arguing that academic property law has become detached from the reality of property law in practice, Bottomley examines three public houses with the aid of a case study approach (the "Red Lion" (Preston), "The Ivy House" (South East London), and the "Plough and Fleece" (Cambridgeshire)) to show how the property law constructions in practice confront the academic property law framework.

Katrien Steenmans and Rosalind Malcolm aim attention at how our understanding of property rights in waste needs to change to allow the circular waste economy to become more effective.[11] In particular, this changed understanding builds on a new emphasis on the notion of responsibility, an approach which we have also encountered in the work of Shelly Hiller Marguerat. To this end, Steenmans and Malcolm first present a theoretical account of property rights before they zoom in on waste as an object of property rights against the backdrop of the EU Waste Framework Directive. Afterwards, they discuss the strengths and weaknesses of three possible property law approaches to foster the circular waste economy.

IV. Property Law in a Digital and Globalizing World

Another field of property law scholarship that is greatly advancing situates property law in a digital and globalizing world. Due to the emphasis of this series on *European* property law, it is not viable to include all contributions that fall in this broader category. This means for instance that the multitude of publications that predominantly address the pressing property law questions in the area of digitalization or globalization from the perspective of a single legal system could in principle not be included. In fact, as shall be seen, most of the following publications instead approach these questions either through a European or (private) international law perspective. Before these publications shall be introduced, one

10 Anne Barbara Bottomley, 'Property's competing values: the public house re-cycled as "community asset"' Journal of Property, Planning and Environmental Law 12 no. 3 (2020), pp. 251–266.

11 Katrien Steenmans and Rosalind Malcolm, 'Transitioning towards circular systems. Property rights in waste' Journal of Property, Planning and Environmental Law 12 no. 3 (2020), pp. 219–234.

last remark may be permitted: publications that specifically discuss the digital challenges and opportunities faced by property law in a digital real estate world, can be found in the chapter on "Immovable Property Law".

To begin then with the area of digitalization, it does not come as a surprise to property lawyers that one of its core challenges lies in the legal classification of digital assets and in the question whether it is possible to "own" data. A recent publication authored by Thorsten B. Behling outlines and examines the current status quo of data "ownership".[12] He first shows why the current European and German legal framework, comprising for instance data protection law and intellectual property law, does not in itself offer a suitable tool to settle the legal classification of data. Therefore, it is not astonishing that data is – in terms of use and access rights – already on the EU agenda. However, so far, the discussions on EU level are still continuing so that the EU developments have not yet led to an embeddedness of these rights. Contributing to the continuing discussion, Behling considers the introduction of a data copyright law.

Rather than focusing on the legal classification of data as such, Christiane Wendehorst raises awareness for the fact that such a classification provokes interesting follow-up questions in the area of private international law.[13] Differentiating four categories of proprietary rights in digital assets, Wendehorst shows that only one of these categories can currently be dealt with through the existing rules on private international law. Given the economic value of digital assets, this lack of uniform private international law rules is undesirable. Consequently, Wendehorst masterfully develops new methods of resolution and discusses potential connecting factors for the remaining categories.

Employing both property law and contract law, Tycho de Graaf has made an interesting contribution to this debate by researching how bitcoins can be legally classified.[14] For this purpose, an outline of bitcoin technology is presented to ensure a common understanding of the underlying technical processes. Once this has been achieved, the technology is analyzed through the eyes of both contract law and property law. Concentrating on the more extensive property law dimension of the paper, De Graaf presents the argument that bitcoins can be qualified by drawing a parallel to "documentary intangibles".

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12 Thorsten B. Behling, 'Wie steht es um das Dateneigentum? Bestandsaufnahme und Ausblicke im Lichte des aktuellen Rechts und gegenwärtiger EU-rechtlicher Entwicklungen' ZGE/IPJ (2021), pp. 3–47.

13 Christiane Wendehorst, 'Digitalgüter im Internationalen Privatrecht' IPRax (2020), pp. 490–499.

14 Tycho de Graaf, 'The Qualification of Bitcoins as Documentary Intangibles' European Review of Private Law 27, no. 5 (2019), pp. 1051–1073.

In the well-known Facebook case, the German Federal Court of Justice had to rule on the possibility to inherit a Facebook account.[15] Both the judgment itself and the underlying legal issue have kept lawyers across Europe occupied. In Volume 27, No. 5 (2019) of the European Review of Private Law, scholars from various European jurisdictions share their point of view against the backdrop of their own legal system. Although contributions that focus on one legal system were in principle excluded from the scope of this overview, this volume has been included as it can serve as a rich source for comparative property lawyers in the area of digitalization. The stimulating contributions stem from Joachim Pierer (Austria, pp. 1115–1129)[16], K.K.E.C.T. Swinnen (Belgium, pp. 1131–1148)[17], Valérie Tweehuysen (The Netherlands, pp. 1149- 1158)[18], Susana Navas Navarro (Spain, pp. 1159–1168)[19], Alexandra Indra Seifert (Germany, pp. 1169–1180)[20], Francesca Bartolini and Francesco Paolo Patti (Italy, pp. 1181–1194)[21], and Mateusz Grochowski (Poland, pp. 1195–1206)[22].

The inheritance of data, though embedded in the broader discussion on the regulating digital assets, was also studied by José Antonio Castillo Parrilla.[23] As a means of introduction, a focused description of the "data marketplace ecosystems" is made available that serves as a basis for the ensuing analysis of the data economy through the lenses of the GDPR and contract law, taking into account especially the "freedom of consent". Perhaps of most interest to property lawyers

15 Urteil des III. Zivilsenats vom 12.7.2018 - III ZR 183/17.

16 Joachim Pierer 'Inheritability of Digital Content under Austrian Law' European Review of Private Law 27, no. 5 (2019), pp. 1115–1129.

17 K.K.E.C.T. Swinnen, 'The German *Bundesgerichtshof's* Decision on Access to the Facebook Account of Your Deceased Child from a Belgian Point of View' European Review of Private Law 27, no. 5 (2019), pp. 1131–1148.

18 Valérie Tweehuysen, 'Digital Afterlife under Dutch Law. The German Case on Inheriting a Facebook Account from a Dutch Perspective' European Review of Private Law 27, no. 5 (2019), pp. 1149–1158.

19 Susana Navas Navarro 'Digital Content of the Inheritance. Remarks on the Judgment of the German Federal Court of Justice (BGH) of 12 July 2018 from the Standpoint of Spanish Law' European Review of Private Law 27, no. 5 (2019), pp. 1159–1168.

20 Alexandra Indra Seifert 'Das digitale Erbe im Spannungsfeld von Persönlichkeitsrechten, Fernmeldegeheimnis und Datenschutz in Deutschland' European Review of Private Law 27, no. 5 (2019), pp. 1169–1180.

21 Francesca Bartolini and Francesco Paolo Patti 'Digital Inheritance and *Post Mortem* Data Protection. The Italian Reform' European Review of Private Law 27, no. 5 (2019), pp. 1181–1194.

22 Mateusz Grochowski, 'Inheritance of the Social Media Accounts in Poland' European Review of Private Law 27, no. 5 (2019), pp. 1195–1206.

23 José Antonio Castillo Parrilla, 'The Legal Regulation of Digital Wealth. Commerce, Ownership and Inheritance of Data' European Review of Private Law 29, no. 5 (2021), pp. 807–830.

is the subsequent assessment on whether data can be classified as "goods" and whether it thus can be owned and inherited. The author outlines the ongoing legal debate by presenting and critically discussing the arguments that have been brought forward against such a classification as well as the offered solutions on how data ownership could be realized.

Having reviewed the research targeting property law in a digital world, the focus shall now be shifted to situating property law in the context of globalization. In his thought-provoking book, published in the "Global Law Series", Amnon Lehavi discloses the impact of globalization on (national) property law systems.[24] He offers an action plan to reduce the existing frictions and shows how the implementation of this action plan depends on an effective institutional set-up on European and international level. The painstaking analysis of the effect of globalization on property law covers an impressively broad range of topics, including "Land" (Chapter 3), "Tangible Goods, Monetary Claims, and Investment Securities" (Chapter 4), which includes a critical assessment of the *lex rei sitae* rule, "Intellectual Property, Data, and Digital Assets" (Chapter 5), and "Security Interests and Proprietary Priorities in Insolvency" (Chapter 6).

V. Comparative Property Law

An old-established and much familiar area of European property law research is of course comparative property law. Therefore, it is not astonishing that in the past three years, the yield in this field was substantial and covers the full range of property law, from movables to immovables, from transfers to trusts, and from qualitative to quantitative research.

A comprehensive overview of comparative movable property law can be found in the newest edition of "Dalhuisen on transnational comparative, commercial, financial and trade law: Volume 2, Contract and movable property law".[25] The first part alone contains a description of rights *in rem* in both civil and common law (including rights *in rem* in incorporeal goods), transfer systems in civil and common law, trusts and their civilian counterparts, security rights, private international law in the area of movable property and the assignment of claims, property law aspects of the Draft Common Frame of Reference, and considerations on the uniformization and harmonization of property law. In the second

24 Amnon Lehavi, *Property Law in a Globalizing World* (Cambridge University Press 2019, 300 pp.).
25 Jan Hendrik Dalhuisen, *Dalhuisen on transnational comparative, commercial, financial and trade law: Volume 2, Contract and movable property law* (Hart Publishing 2019, 856 pp.).

part, documents of title (e.g. the Bill of Lading) as well as negotiable instruments are covered before in the third part, the focus is placed on security aspect of investments.

The Austrian, French, and German transfer systems for movables and immovables are compared by Marielle Sauer.[26] In a first step, it is examined how the concepts "good" and "ownership" are defined in Austria, France, and Germany and how the ownership of (im)movable goods is transferred in these three jurisdictions. Afterwards, the effects of the German abstract system are compared to the effects of the Austrian and French causal systems, taking into account not only a legal but also an economic perspective. It deserves highlighting that the analysis even includes the transfer of future goods and the retention of ownership. In the end, the comparison leads to the conclusion that the differences across the legal systems are primarily dogmatic in nature while their impact on legal practice is relatively insignificant.

Taking the example of legal family trees, Yun-chien Chang, Nuno Garoupa, and Martin T. Wells show how comparative property law research can be combined with empirical legal research.[27] Reflecting on possible methodological and practical shortcomings of earlier classifications, they produced the first legal family tree, whereby different jurisdictions are grouped together based on an analysis of substantive private law. Having identified property law as the most suitable area of private law for their analysis, they have conducted an impressive quantitative comparative study, coding the property law systems of 129 jurisdictions based on 170 variables. The authors have taken great care to provide a description of the employed methodology to enable others to reproduce the research and assess its results, which in turn testifies to the added value that can be gained when comparative research is combined with empirical research. The findings of the research are made accessible through clearly arranged figures and tables. Probably the most fascinating conclusion of this research is that a legal family tree that is generated based on property law shows the greatest divide between jurisdictions that are inspired by France and jurisdictions that are not inspired by France rather than the classical common law – civil law divide, that perhaps was to be expected at first.

Together with Henry E. Smith, Yun-chien Chang has produced another interesting comparative property law study to analyze the convergence and divergence

26 Marielle Sauer, 'Die Übereignung beweglicher und unbeweglicher Sachen nach deutschem, österreichischem und französischem Recht' ZVglRWiss 118 (2019), 81–116.

27 Yun-chien Chang, Nuno Garoupa and Martin T. Wells, 'Drawing the Legal Family Tree: An Empirical Comparative Study of 170 Dimensions of Property Law in 129 Jurisdictions' Journal of Legal Analysis 13, no. 1 (2021), 231–283.

in the property law systems of 119 jurisdictions.[28] To this end, their analysis focusses on two aspects of property law systems: their structure and their style. For the purpose of assessing whether the structure of property law systems converge or diverge, the authors examine the information costs for the verification of owners in light of the doctrines of good faith acquisition and adverse possession as well as the limitation of property rights through the existence of a *numerus clausus* or *numerus apertus* principle. Based on this assessment, they argue that structure of property law systems converges. In order to determine whether the style of property law systems converge or diverge, a distinction is drawn between interconnected and isolated doctrines. Their research suggests that convergence can only be observed regarding isolated doctrines. Contrariwise, interconnected doctrines seem to be more prone to diverge.

Christian von Bar discusses various aspects of possession in addition to the acquisition of goods, and third-party protection rules from a European perspective.[29] Instead of conducting an in-depth analysis of the technical rules of a single jurisdiction or a selected group of property law systems, Von Bar comprehensively emphasizes the central themes and systems that can be observed across Europe, which are illustrated and made tangible through a rich set of references to a multiplicity of national property laws.

The Commons have been the object of comparative research conducted by Ugo Mattei and Alessandra Quarta.[30] Departing from the observation that scholars are slowly freeing the Commons from its perceived negative image and being inspired by the Italian debate on the Commons, they developed a questionnaire (that was eventually returned by 15 jurisdictions, among which nine European jurisdictions) to determine the potential and advance of the Commons as a legal option tantamount to private and public property. The questionnaire accommodated the public and private law dimension of the Commons and contained a number of concrete cases relating for instance to the right to housing and water in addition to several open questions. The authors first present each of these cases and questions and then thoroughly summarize, evaluate, and compare the received responses.

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28 Yun-chien Chang and Henry E. Smith, 'Convergences and Divergence in Systems of Property Law: Theoretical and Empirical Analyses' Southern California Law Review (2019), 785–808.

29 Christian von Bar, 'Europäische Grundfragen des Rechts des Besitzes und des rechtsgeschäftlichen Erwerbs von Sachrechten' Archiv für die civilistische Praxis 219, no. 3–4 (2019), pp. 341–375.

30 Ugo Mattei and Alessandra Quarta, 'Property Meeting the Challenge of the Commons' in Katha rina Boele-Woelki, Diego P. Fernández, and Arroyo Alexandre Senegacnik (eds), *General reports of the xxth general congress of the international academy of comparative law: rapports généraux du xxème congrès général de l'académie internationale de droit comparé* (Springer 2021), pp. 23–50.

The development of comparative property law as a discipline is examined by Sjef van Erp.[31] Beginning with an overview of the relatively short history of comparative property law, it is highlighted how the EU internal market with its five freedoms next to human rights have influenced not only national systems of property law but also sparked a renewed interest in comparing these systems. In the future, due to the significant influence of digitalization, climate change and mass migration, as well as globalization on national property law systems, the approach to comparative property law is likely to change, effecting both the attitude with which property law systems are compared and the importance of this discipline.

Although they do not embody comparative research in the strict sense of the word, the series of monographs titled "Property and Trust Law in [*jurisdiction*]" form a rich source for comparative property lawyers, who are keen on finding not only theoretical but also practical information about trusts in a given jurisdiction that is accessible in English. Between 2019 and 2021, new editions have been published for the following jurisdictions: Hungary (István Sándor)[32], Slovenia (Jerca Kramberger Skerl and Ana Vlahek)[33], and Spain (Rafael Sánchez Aristi and Nieves Moralejo Imbernón)[34]. Furthermore, the series has been extended to also cover Cyprus (Tatiana Eleni Synodinou)[35] and the Czech Republic (Kateřina Ronovská, Eva Dobrovolná, Bohumil Havel, and Vlastimil Pihera)[36].[37]

31 Sjef van Erp, 'Comparative Property Law' in Mathias Reimann and Reinhard Zimmermann (eds), *The Oxford Handbook of Comparative Law* (Oxford University Press 2019), 1032–1056.

32 István Sándor, *Property and Trust Law in Hungary* (Kluwer Law International 2021, 256 pp.).

33 Jerca Kramberger Skerl and Ana Vlahek, *Property and Trust Law in Slovenia* (Kluwer Law International 2020, 258 pp.).

34 Rafael Sánchez Aristi and Nieves Moralejo Imbernón, *Property and Trust Law in Spain* (Kluwer Law International 2019, 178 pp.).

35 Tatiana Eleni Synodinou, *Property and Trust Law in Cyprus* (Kluwer Law International 2020, 224 pp.).

36 Kateřina Ronovská, Eva Dobrovolná, Bohumil Havel, and Vlastimil Pihera, *Property and Trust Law in the Czech Republic* (Kluwer Law International 2020, 174 pp.).

37 In addition, a non-EU country has been added, which might interest European comparative property lawyers: Hiroshi Matsuo, *Property and Trust Law in Japan* (Kluwer Law International 2021, 274 pp.).

VI. Property Law Conference Volumes and Libri Amicorum

New impulses stemming from young property law researchers, who presented their (PhD) research during the 2016–2019 annual editions of the Young Property Law Forum, are published in the "Property Law Perspectives VI"[38] and "Property Law Perspectives VII"[39]. The contributions in each of these two volumes are grouped under three headers. Part I of "Property Law Perspectives VI" discusses "classical" property law issues, such as a comparative account on how the insolvency of a seller influences real estate transactions (Tiddo Bos, pp. 93–108). Part II then comprises contributions that are written from the perspective of a single national jurisdiction, dealing for instance with the "Transfer of Title of Goods by Intent in English law" (Zhicheng Wu, pp. 126–146). Part III finally offers an interesting view on new challenges in property law concerning for example digital "things" (Stefan Bucher, pp. 181–202) or 3D printing (Constantin Blanke-Roeser, pp. 203–215).

The newest edition of the "Property Law Perspectives" series organizes its contribution along the lines of a different set of categories. The contributions in Part I raise the question whether certain intangibles qualify as objects such as a token according to Swiss law (Alexandra Dal Molin-Kränzlin, pp. 3–27) and how virtual goods relate to possessory protection (Aleksa Radonjić, pp. 29–41), whereas Part II focusses on viewing property through the lens of justice, in which contributions for instance examine the "Customary Law 'Ownership' of Sacred Waters" (Mpho Bapela and Lesetja Monyamane, pp. 65–84). Part III then returns to a "classic" – immovable property law – which discusses topics such as "The Prohibition of Excessive Nuisance (Neighborhood Disturbances) as Protection for the Environment" (Johan van de Voorde, pp. 155–175).

The environment also plays a central role in the book edited by Siel Demeyere and Vincent Sagaert, titled "Contract and Property with an Environmental Perspective", which is the fruit of a conference hosted by the KU Leuven Institute for Property Law in 2019.[40] A total of eleven contributions provide various perspectives to the topic, including a historical account (Vincent Sagaert, pp. 1–28), the

38 Caroline S. Rupp, Rafael Ibarra Garza, and Bram Akkermans (eds), Property Law Perspectives VI (Eleven International Publishing 2019, 252 pp.).

39 Jill Robbie and Bram Akkermans (eds), Property Law Perspectives VII (Eleven International Publishing 2021, 192 pp.).

40 Siel Demeyere and Vincent Sagaert, Contract and Property with an Environmental Perspective (Intersentia 2020, xiv + 286 pp.).

circular economy (Benjamin Verheye, pp. 77–124), or "Contractual Regulations of Property Rights" (Siel Demeyere, pp. 47–76) next to many contributions written from the perspective of a national legal system (such as Christine Godt focusing on "Environmental Duties in the German Land Register" pp. 235–266 and Andrew J.M. Stevensen analyzing "Real Burdens in Scots Law" pp. 143–162).

The year 2021 has also seen the publication of the liber amicorum "Sjef-*Sache*", dedicated to Sjef van Erp and edited by Bram Akkermans and Anna Berlee.[41] The book collects 34 contributions from an international group of scholars, who together offer a diversified journey through property law, addressing not only old-established topics such as land law (for example, Monika Hinteregger's contribution in which positive registration systems are contrasted with third party protection rules, pp. 351–364), succession and matrimonial property law (including an examination of the EU Regulation on matrimonial property law offered by Sabine Heijning, pp. 425–448), and security rights (such as Willem Loof's contribution titled "Securing Debt in a World Without Collateral", pp. 319–330), but also property law theory (including a study "on the Fluidity of Ownership" by Elsabé van der Sijde, pp. 121–135), comparative property law and the challenge of translations (addressed for instance by Elena Ioriatti, who, in her contribution is "Seeking for the National Criptotypes", pp. 263–285), and property law on the edge of technology and digitalization (such as Jasper Verstappen's analysis of smart contracts and distributed ledgers, pp. 485–505).

VII. European Succession Regulation & Matrimonial Property Law

With its coming into effect on 17 August 2015, the European Succession Regulation has by now become part of the standard repertoire of European property law scholarship. Especially the many preliminary ruling proceedings, the subsequent conclusions of the advocates general and the final judgments of the CJEU have been followed with great interest by property lawyers. Many of them have analyzed the consequences of these judgments for their own national legal system.

41 Bram Akkermans and Anna Berlee (eds), *Sjef-Sache. Essays in Honour of Prof. mr. dr. J.H.M. (Sjef) van Erp on the Occasion of his Retirement* (Eleven International Publishing 2021, 602 pp.).

Four years after the European Succession Regulation, the newer EU Regulations on Matrimonial Property[42] and on Property of Registered Partnerships[43] came into effect on 29 January 2019. With the adoption of these EU regulations, a new research field was opened to property law scholars, which has already witnessed the publication of a PhD dissertation. In general, it is remarkable how many PhD dissertations have been published on either of the three EU regulations in the past three years.

We first turn to the publications that were written about the European Succession Regulation. A comprehensive study on the European Certificate of Succession and its effect on cross-border succession cases is the result of the PhD research conducted by Duy Tuong Huynh.[44] Published in the series "Studien zum ausländischen und internationalen Privatrecht", his PhD dissertation first sketches the spectrum of national succession certificates and establishes how the European Certificate of Succession relates to the national instruments, whereby due regard is given to the obstacles that are to be overcome by the European Certificate of Succession. Subsequently, an extensive overview over the effects of the European and selected national certificates of succession (i.e. Germany and Austria) is presented. Hereby, Huynh does not forget to address the situation in which two or more European/national certificates of succession show inconsistencies before he zooms in on the most important legal issues that the parties to a succession case can be confronted with, be it for instance related to the issuance, content, or enforcement of such a certificate. As a capstone, the European Certificate of Succession is embedded in the broader European and international legal framework (such as the 1973 Hague Convention Concerning the International Administration of the Estates of Deceased Persons).

Another intriguing PhD dissertation on the European Succession Regulation, which is also published in the series "Studien zum ausländischen und internationalen Privatrecht", is authored by Elena Gubenko.[45] The focus of the dissertation lies on the widely debated relation between the law that applies to the succession

42 Council Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes, OJ L 183, 8.7.2016, p. 1–29.

43 Council Regulation (EU) 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships, OJ L 183, 8.7.2016, p. 30–56.

44 Duy Tuong Huynh, *Internationale Nachlassabwicklung im Lichte des Europäischen Nachlasszeugnisses. Zugleich eine rechtsvergleichende Betrachtung zu den Erbnachweisen im deutschen, österreichischen und europäischen Recht* (Mohr Siebeck 2021, XLII, 583 pp.).

45 Elena Gubenko, *Die Abgrenzung des Erbstatuts vom Sachstatut in der EUErbVO* (Mohr Siebeck 2021, XXII, 322 pp.).

("*Erbstatut*") and the *lex rei sitae* ("*Sachstatut*"). Hereby, Gubenko does not limit her analysis of this relationship to the situation after the European Succession Regulation has entered into force but also includes a comprehensive overview of this relationship prior to the Succession Regulation from the perspective of German law. To demonstrate how the respective legal frameworks unfold in legal practice, it is assessed how they deal with the legacy by vindication and the right of usufruct accorded to the surviving spouse, considering the impact of the CJEU judgment rendered in the famous *Kubicka* case.[46]

Piotr Tereszkiewicz and Anna Wysocka-Bar have analyzed this first CJEU judgment on the European Succession Regulation.[47] To this end they first provide a summary of the case facts as well as a concise explanation of legacies by vindication and damnation before the judgment itself is scrutinized and the effects of this judgment are classified from a predominantly German perspective.

The German angle is shared by Dorota Miler, who skillfully examines yet another aspect of the European Succession Regulation – the possibility to choose the law applicable to one's succession in light of its potential to avoid the law that would otherwise govern the succession.[48] This potential is especially intriguing when it is strategically instrumentalized to disadvantage one or more heirs. To determine whether German courts would be able to set aside the choice of law in these cases, Miler first inventories which requirements need to be satisfied according to European and German rules of private international law to find an "evasion of the law". Applying article 22 of the Succession Regulation to these criteria, she finds that a choice of law only has little potential of actually satisfying these requirements.

An aspect of the European Succession Regulation that is still rather obscure concerns the effect of pre-existing treaties that various Member States have concluded with third countries. The groundbreaking research edited by Anatol Dutta and Wolfgang Wurmnest contributes to a significant reduction of this obscurity.[49] The research is arranged in three main parts, each of which analyzes the topic from a different angle. The first angle is that of the Member States, whereby the

46 C-218/16 *Kubicka* [2017] ECLI:EU:C:2017:755.

47 Piotr Tereszkiewicz and Anna Wysocka-Bar, 'Legacy by Vindication Under the EU Succession Regulation No. 650/2012 Following the Kubicka Judgment of the ECJ' European Review of Private Law 27 no. 4 (2019), pp. 875–894.

48 Dorota Miler, 'Evasion of the Law Resulting from a Choice of Law under the Succession Regulation' RabelsZ 84 no. 3 (2020), pp. 615–636.

49 Anatol Dutta and Wolfgang Wurmnest (eds), *European Private international Law and Member State Treaties with Third States. The Case of the European Succession Regulation* (Intersentia 2019, xxiv + 468 pp.).

bilateral treaties of nine Member States (including for instance Belgium, the Czech Republic, and Finland) are inventoried and systematically examined, enabling an assessment of how they affect the European Succession Regulation. To foster a more comprehensive access to these treaties, it is not surprising that the second angle is that of the third countries, providing an opportunity to scholars from a total of seven third countries (e.g. Iran, Turkey, and Switzerland) to exposit their perspective. The only angle missing then is that of the EU, which is presented by Dutta before Wurmnest concisely summarizes the effect of bilateral treaties on the Succession Regulation and formulates suggestions to reduce this effect.

Leaving then the European Succession Regulation, Stephan Gräf has written his PhD dissertation on the EU Regulations on Matrimonial Property and on Property of Registered Partnerships, which was published as volume 425 in the series "Studien zum ausländischen und internationalen Privatrecht".[50] Specifically, he focusses on the position of third parties, who conclude a legal transaction with one or both spouses/registered partners, including the third party protection mechanisms offered by these European Regulations. A rich comparative study is prepended to the study of the position of third parties in the European Regulations, covering not only the right to dispose but also the liability of the spouses/registered partners towards third parties. Rather than providing an in-depth comparison of a select group of legal systems, this first part presents a bird's eye view of the variety of national rules (in Europe) governing the right of disposal and questions of liability. This comparative exercise is followed by an analysis of the position of third parties in the European Regulations, which contains a detailed examination of the jurisdiction of the courts as well as of the law that applies to the matrimonial property/ the property of registered partnerships. This examination is completed with a meticulous analysis of the third-party protection mechanisms.

Another assessment of these EU Regulations was carried out by Neža Pogorelčnik Vogrinc, who is particularly interested in the possibility given to the spouses/registered partners to choose the applicable law.[51] In her critical assessment of the connecting factors established by the European Regulations, she adds a refreshing Slovenian and Croatian perspective, which is not often encountered in English literature on the topic. A variety of short case studies then illustrates how the applicable law can differ depending on whether it is determined on the basis of the EU Regulations or the private international law of Slovenia before the

50 Stephan Gräf, *Drittbeziehungen und Drittschutz in den Europäischen Güterrechtsverordnungen* (Mohr Siebeck 2019, XXXIV, 531 pp.).

51 Neža Pogorelčnik Vogrinc, 'Applicable law in matrimonial property regime disputes' Zbornik Pravnog fakulteta Sveučilišta u Rijeciv 40 no. 3 (2020), pp. 1075–1096.

EU legal framework governing the conclusion, alteration, and termination of choice-of-law clauses is addressed and the *renvoi* rules contained in the EU Regulations as well as in the Slovenian and Croatian private international law rules are described.

VIII. Immovable Property Law

Immovable property law belongs to the primary rock of property law scholarship. Although much has already been written about this field of property law, it keeps receiving a lot of attention from property lawyers. Like the previous category, it has also witnessed several refreshing PhD dissertations, all of which analyzed a different aspect of the transfer of immovables. After all, the field itself is not immovable but evolving through the impact of the rising influence of digitalization and globalization.

Beginning with a fine example of historical research in the area of immovable property law, Vincent Nossek has profoundly examined the historical development of the German, French, and English land register between 1652 and 1900.[52] In his PhD dissertation, published in the interdisciplinary series "Rechtsordnung und Wirtschaftsgeschichte", Nossek departs from the understanding that the land registers in the three chosen jurisdictions in essence pursue to realize the same goals, such as protecting the legal interest of immovable property owners. Against this background, he employs an exegetical method to analyze how and why the land registers in the three chosen jurisdictions have undergone different legal developments.

Björn Hoops and Ernst J. Marais have edited an intriguing book on acquisitive prescription, which provides a multi-perspective approach to the topic.[53] The contributions stem from different jurisdictions (such as Finland, Belgium, Poland, Ireland, Slovakia, and Italy) and are organized in four categories. In a first step, attention is paid to the legal framework underlying acquisitive prescription in Italian, Belgian, and Polish law. In the second part, the focus is placed on the evaluation of social dimension of acquisitive prescription and adverse possession, whereas the third part situates acquisitive prescription in the context of land registration systems. The fourth part then opens the discussion about the desirability to introduce other types of solutions for acquisitive prescription cases.

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52 Vincent Nossek, *Das Konzept "Grundbuch": Der Streit um das Grundregister in Deutschland, Frankreich und England zwischen 1652 und 1900* (Mohr Siebeck 2019, XXII, 450 pp.).

53 Björn Hoops and Ernst J. Marais (eds), *New Perspectives on Acquisitive Prescription* (Eleven International Publishing 2019, 308 pp.).

Considering recent law reforms, Charlotte Willemot has compared the complex apartment co-ownership regimes of Belgium, France, and the Netherlands.[54] Placing the emphasis on Belgian law, she first provides an overview of the cornerstones of Belgian apartment law, before the four aims of the Belgian law reform are discussed. It is in this part that excursions are offered to French and Dutch law to critically discuss the Belgian reform. In particular, this comparative exercise reveals how the Belgian reform was influenced by the solutions offered by French law.

Andrea Fusaro has prepared a report for the World Congress of the International Academy of Comparative Law in which he shares the fruits of his research into the function of legal professionals involved in the conveyancing process, which most prominently include the Latin notaries, solicitors, and conveyancers.[55] Having obtained the relevant data through questionnaires, which were returned by nine European and three non-European jurisdictions, Fusaro analyses and compares the duties of legal professionals in the area of conveyancing, the costs for the provision of their service, and the duration of the conveyancing process. Further, other points raised by the respondents such as technological developments and real estate fraud are (brief) attended.

Rosa M. Garcia-Teruel examines the potential of blockchain technology for real estate transactions, whereby it is immediately acknowledged that such an assessment, rather than intending to suggest a one-size-fits-all solution, renders it necessary to distinguish between different kinds of real estate transactions and the various (European) jurisdictions.[56] Consequently, three transactions are selected (real estate transfers, creation of mortgages, and rental contracts) and it is examined which legal professionals are involved in the realization of these transactions across Europe. Afterwards the potential of blockchain technology is worked out, whereby explicit attention is given to specific problems that must first be addressed before blockchain technology can be successfully implemented in this area.

54 Charlotte Willemot, 'A Comparative Analysis of Recent Modifications to Several Legal Regimes for Apartment Co-ownership' European Review of Private Law 28 no. 2 (2020), pp. 425–446.

55 Andrea Fusaro, 'The Legal Services Market and Conveyancing' in Katharina Boele-Woelki, Die go P. Fernández, and Arroyo Alexandre Senegacnik (eds), *General reports of the xxth general congress of the international academy of comparative law: rapports généraux du xxème congrès général de l'académie internationale de droit comparé* (Springer 2021), pp. 669–673.

56 Rosa M. Garcia-Teruel, 'Legal challenges and opportunities of blockchain technology in the real estate sector' Journal of Property, Planning and Environmental Law 12 no. 2 (2020), pp. 129–145.

A temperate approach to the use of blockchain technology in the world of immovable property is shared by Oleksii Konashevych.[57] Departing from the diagnosis that to date, a successful integration of blockchain technology in the immovable property sector could not be detected, Konashevych first explains what the blockchain technology encompasses and how it relates to decentralization before he concentrates on identifying general problems and fallacies that surround this technology. This enumeration of theoretical problems is completed by a description of practical problems that are observable in already existing projects to integrate blockchain technology in the area of immovable property.[58]

The publicity principle is the focus of Benjamin Verheye's compelling PhD dissertation.[59] After first discussing the role of publicity in immovable property law and distinguishing different types of publicity systems, a historical overview of the publicity principle is provided, beginning with the Roman concept of publicity and covering the developments that have been taken place in France, Belgium, the Netherlands, Germany, including even the Torrens system. This historical overview is followed by a comparative description of the contemporary publicity principle and its effect as can be observed under French, Belgium, Dutch, and German law. Based on this description, the publicity principle is assessed with the aid of related principles, such as the *nemo dat* rule and the principle of legal certainty. A normative evaluation of the publicity principle forms the capstone of this research.

Next to his PhD dissertation, Verheye has also authored a book on "the digital notary", in which he discusses the Latin notariat in view of the ongoing technological revolution.[60] The book is clearly structured in three parts. The first part presents a general analysis of new technological developments, such as blockchain and the internet of things before it is examined how this technology could be used by notaries (Part II), which is of particular interest for notaries, who are exploring new innovative solutions to the problems faced in the current crisis. The third part shows how new technology is already used by (especially Belgian) notaries.

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57 Oleksii Konashevych, 'Constraints and benefits of the blockchain use for real estate and property rights' Journal of Property, Planning and Environmental Law 12 no. 2 (2020), pp. 109–127.

58 Jan Veuger has authored a paper that specifically addresses the use of blockchain technology in the Dutch immovable property cosmos: Jan Vreuger, 'Dutch blockchain, real estate and land registration' Journal of Property, Planning and Environmental Law 12, no. 2 (2020), pp. 93–108.

59 Benjamin Verheye, *Onroerende registerpubliciteit in kritisch rechtsvergelijkend perspectief* (die Keure 2021, XXIII, 622 pp.).

60 Benjamin Verheye, *De digitale notaris. Technologie voor en door het notariaat van de 21ste eeuw* (die Keure 2021, 152 pp.).

The PhD dissertation of Wiebke Voß provides an interesting comparative analysis of mechanisms available under German, English, Scottish, and Spanish law that offer protection to buyers of immovable property in the period between the conclusion of the contract of sale and the transfer of ownership.[61] To begin with, Voß builds the fundament by first sketching the historical overview of how the process underlying the acquisition of land developed, before she discusses the classification of proprietary and contractual rights as well as the contractual right of the buyer to the transfer of ownership in the chosen jurisdictions. In a second step, the risks that buyers are exposed to in Germany, Scotland, England, and Spain after the signature of contract of sale are inventoried and compared. It is then examined how the four jurisdictions aim to minimize these risks and what the effect of these efforts are. In a third step, these mechanisms, aiming at the reduction of the buyer's risk, are discussed on the intersection of proprietary and contractual rights, whereby it is also assessed whether a consensual transfer system would lead to more desirable outcomes for the buyer.

A PhD dissertation about the facilitation of cross-border real estate transactions in Europe was composed by the author of this article and published as the 21st volume of the Maastricht Law Series.[62] Through the comparison of the land registration systems of the Netherlands, Germany, and England & Wales, the necessary groundwork for the thesis was laid. From this comparison, a total of 29 challenges were deduced that are faced by the different parties that are involved in cross-border real estate transactions. To determine whether these challenges are already met through the existing initiatives taken by various European and international organizations, an overview of these initiatives was generated. After having matched the initiatives with the identified challenges, strategies for the further facilitation of European cross-border real estate transactions were developed and assessed.

61 Wiebke Voß, *Erwerbssicherung beim Grundstückskauf. Eine rechtsvergleichende Studie zu Nichterfüllungsrisiken, Schutzinstrumenten und ihren Wirkungen im deutschen, englischen, schottischen und spanischen Recht* (Mohr Siebeck, 2019, XXX, 558 pp.).

62 Katja Zimmermann, *Facilitating Cross-Border Real Estate Transactions in Europe. An Exploration* (Eleven International Publishing 2021, 556 pp.).

IX. On the Intersection of Property Law & Contract Law

Not only property law as such but also its point of contact with contract law has been subject to fascinating research. In her PhD dissertation, published as the ninth volume in the "Property Law Series", Siel Demeyere conducts an in-depth comparative study into real obligations under French, Belgian, Dutch, and Scots law.[63] Given that real obligations are affected by both property law and contract law, the first part of the study is dedicated to a careful assessment of both areas of law in the various jurisdictions to define what real obligations are before the legal framework is carved out. Hereby, great attention is given to possible liability issues that might affect the transferor or the transferee when a real obligation becomes the object of a transfer. The third part of the book is then dedicated to an examination of how real obligations engage with other property rights, be it in a "Proprietary Relationship regarding One Single (Im)Movable" or in a "Proprietary Relationship between Two Immovables". To ensure a holistic approach to the topic, the dissertation also includes a discussion of legal techniques available under Dutch, French, and Scots law that are capable of ensuring a similar result but exist outside the realm of property law.

Lutz-Christian Wolff proposes that the distinction between these two areas of the law is not as clear as is traditionally defended.[64] Concentrating on the English property law rules governing movable and intangible property to substantiate his argument, he first carefully outlines the employed terminology to avoid ambiguity before carrying out doctrinal research to determine how English case law and doctrine relate property law to contract law. This analysis shows how especially claims are not strictly confined to contract law but also engage with property law. To qualify his research, a brief excursion is made to the property laws of Germany and Austria.

In common law scholarship, Jan Felix Hoffmann observes the formulation of a new contract law theory based on ownership, which suggests that between the parties, it is unimportant to distinguish relative from absolute rights.[65] Consequently, a rigid distinction between contract and property law should be abandoned. This common law development provokes the question whether a contract

63 Siel Demeyere, *Real Obligations at the Edge of Contract and Property* (Intersentia 2020, xxvi + 816 pp.).

64 Lutz-Christian Wolff, 'The relationship between contract law and property law' Common Law World Review 49 no. 1 (2020), pp. 31–55.

65 Jan Felix Hoffmann, 'Contract Law Theory and The Concept of 'Ownership'' European Review of Contract Law 17 no. 2 (2021), pp. 142–156.

could give immediate rise to absolute rights in a civil law context. This question is examined against the backdrop of German law. To this end, a brief overview of the contractual ownership theories is provided before the anatomy of an obligation and hence the entitlement of a creditor in relation to the debtor is examined. Further, it is assessed how civil law systems differentiate absolute rights from relative rights. Having conducted the preparatory work, Hoffman then analyzes whether a contract could solely give immediate rise to absolute rights or whether the imposition of additional requirements (such as delivery) is legitimate.

The CJEU judgment in case C-598/15 *Banco Santander v Christobalina Sánchez López* [2017] ECLI:EU:C:2017:945 inspired Wolfgang Faber and Claes Martinson to reflect on the intriguing question whether the transfer of ownership (of an immovable) should be capable of checkmating the enforcement of the EU Consumer Law Rights Directive.[66] Recapitulating the case facts and the judgment, they conclude that the CJEU dealt with the case in a rather official manner, and therefore advocate an alternative method, the "functional approach", to not only reach a fairer outcome in cases on the intersection of property law and consumer protection law but to also do greater justice to the principle of effectiveness.

X. Cultural Property Law

An overview of property law scholarship would not be complete without giving due regard to the engaging field of cultural property law. Erik Jayme concentrates on the registration of art in the Lost Art Database of the German Lost Art Foundation.[67] The discussion evolves from a judgment in an international art case rendered by the district court ("*Landgericht*") Magdeburg, in which the court had to decide whether the registration of a painting in the Lost Art Database constitutes a violation of the right of ownership. After addressing the court's jurisdiction and the applicable law, Jayme critically analyses the court's judgment.

In order to give better protection to culture object and to curtail looting, Evelien Campfens advocates the implementation of a "heritage title".[68] Shedding

66 Wolfgang Faber and Claes Martinson, 'Can Ownership Limit the Effectiveness of EU Consumer Contract Law Directives? A Suggestion to Employ a 'Functional Approach'' Austrian Law Journal 2019, pp. 85–123.

67 Erik Jayme, 'Spannungen zwischen Eigentum und Restitutionsforderungen bei der Eintragung von Kulturgütern in die Lost Art-Datenbank der Stiftung Deutsches Zentrum Kulturgutverluste. Auswirkungen auf das International Privat- und Verfahrensrecht' IPRax (2020), pp. 544–547.

68 Evelien Campfens, 'Whose Cultural Objects? Introducing Heritage Title for Cross-Border Cultural Property Claims' Netherlands International Law Review 67 (2020), pp. 257–295.

light on the two dimensions of cultural objects (as a representation of a culture's heritage and as a commercial object of property law), Campfens inventories the various interests in cultural objects and examines the international legal framework (e.g. 1970 (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects) to detect gaps in the existing legal framework, the reduction of which is currently attempted through the creation of soft law. Concluding that the current legal framework does not grant a satisfactory level of protection of cultural goods, Campfens employs human rights to propose the implementation of a "heritage title".

XI. Miscellaneous

The last step to finalize this overview is to spotlight three interesting publications on the *numerus clausus*, security rights, and the legal classification of animals that could not be grouped under one of the previous categories. On the level of property law principles, the *numerus clausus* has received attention from Eveline Ramaekers and Bram Akkermans, who rather than intending to examine this core principle from the perspective of a national jurisdiction or from a comparative angle, pose the question whether a *numerus clausus* also exists on EU level.[69] Using the term "rights *in rem*" in addition to a variety of "classical" property rights (such as ownership, mortgage, and usufruct) as search terms to scrutinize EU case law and legislation in the area of property law, they show that although the development of an autonomous property law vocabulary can be observed, the CJEU also still leans on national systems of property law.

A comparative study of "Security Rights in Intellectual Property" was prepared by Eva-Maria Kieninger.[70] Showing why security rights in this particular area of the law has added economic value, Kieninger identifies the hurdles that need to be crossed before this becomes a feasible endeavor and evaluates the existing international legal framework on the edge of security rights and intellectual property law. A comparative overview, involving a selection of (non-) Eur-

69 Eveline Ramaekers and Bram Akkermans, 'European-Autonomous Property Rights: Does the EU Operate Its Own Numerus Clausus?' European Review of Private Law 27 no. 4 (2019), pp. 753–783.

70 Eva-Maria Kieninger, 'Security Rights in Intellectual Property' in Katharina Boele-Woelki, Die go P. Fernández, and Arroyo Alexandre Senegacnik (eds), *General reports of the xxth general congress of the international academy of comparative law: rapports généraux du xxème congrès général de l'académie internationale de droit comparé* (Springer 2021), pp. 349–371.

opean legal systems, follows, in which it is discussed whether security rights can be created and enforced in (inter)national intellectual property rights (such as the EU trademark), whether the latter are transferable, and which kind of security rights could be employed for that purpose, whereby a functional approach is contrasted with a unitary approach and the practical implications are highlighted.

Eva Bernet Kempers takes us to explore the legal qualification of animals, which are "neither things nor persons".[71] Comparing Belgian, Dutch, French, and German private law rules, Kempers shows how the legal qualification of animals has undergone changes in these jurisdictions in dialogue with the prevalent legal culture and analyses whether these changes were primarily figurative in nature or whether animals as "non-things" are now subjected to a private law approach that verifiably sets them apart from "things".

XII. Conclusion

Without a doubt, this overview shows that European property law can be researched from a myriad of angles. The mere fact that ten categories were necessary to group the selected publications illustrates how diverse the field has become. Looking back at the first two editions of this series, it also depicts how the field has been developing in the past three years. Research on "classic" areas of property law, such as comparative property law and immovable property law, has lost none of its strength and fascination. In fact, it does not go unnoticed that an impressive number of PhD dissertations were dedicated to immovable property law, the European Succession Regulation, and the EU Regulations on Matrimonial Property and Property of Registered Partnerships. At the same time, we can witness a growing trend towards research that challenges the core of our current understanding of property and invites us to creatively think about what our concept of property should be for it to be able to effectively respond to globalization, digitalization, and the ecological crisis. Connected herewith, it is noticeable that property law is not only developing as a discipline, but that it is also increasingly seeking the dialogue with other fields of expertise, such as philosophy, economics, politics, and ethics to formulate interdisciplinary responses to the most urgent questions of our time.

71 Eva Bernet Kempers, 'Neither Persons nor Things. The Changing Status of Animals in Private Law' European Review of Private Law 29 no. 1 (2021), pp. 39–70.