

Coherence and Fragmentation in European Private Law

Coherence and Fragmentation in European Private Law

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sellier european law publishers

ISBN (print) 978-3-86653-228-1
ISBN (eBook) 978-3-86653-965-5

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at <http://dnb.dnb.de>.

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Production: Karina Hack, Munich. Typesetting: fidus Publikations-Service GmbH, Nördlingen. Printing and binding: AZ Druck und Datentechnik, Kempten. Printed on acid-free, non-ageing paper. Printed in Germany.

Preface

Private law is traditionally said to consist of a coherent system formed by a set of general principles and concepts, with rules as their consistent corollaries. The main function of this coherence would lie in providing those who make use of this system (such as legal scholars, courts and legislatures) with a tool to describe existing law and to decide new cases ensuring legal certainty and equality. This systematic view of private law has been highly influential over the last two centuries. At the same time, it is a view closely associated with national private law and with national legal actors that work closely together in maintaining and developing the system. Increasing Europeanization has fundamentally challenged this idea: private law today is said to be fragmented.

The aim of this book is to test that view for a number of different fields forming part of European private law in the broad sense of the term: contract law, property law, competition law, insurance law, marketing law, private international law and the law of intellectual property. It aims to show how fragmentation is perceived in each of these fields and what solutions are available to remedy its adverse effects. Furthermore, this volume shows how aspirations to new (European) coherence may result in greater fragmentation. In addition, a historical perspective on fragmentation and coherence is provided.

This book is the joint product of one of the four research groups active within the Centre of Excellence in the Foundations of European Law and Polity Research at the University of Helsinki. The Centre is funded by the Academy of Finland and aims to research the effects of Europeanization on law and legal theory, even to rethink European legal thinking. The research group that produced the book – all authors are associated with the Centre and with the Helsinki Faculty of Law – looks specifically at the consequences of Europeanization in the field of private law and its underlying values. Discussion about the research of which this volume is the result took place at a number of seminars organized by the Centre during 2010 and 2011.

Several people have provided support in preparing this book. We would like to mention in particular Ilona Nieminen, coordinator of the Centre, and Christopher Goddard, who provided excellent language editing. We are grateful to both, as we are to the staff at sellier european law publishers.

Helsinki, June 2012

The Editors

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