The Growing Importance of European Law and How It Affects Teaching and Research in the Field of the Private Law of Obligations (Torts, Contracts and Restitution)

PETER SCHLECHTRIEM[†]

SUMMARY

I. PRELIMINARY REMARKS 531
II. SOURCES OF EUROPEAN LAW 531
III. UNIFORM LAW BY ADJUDICATION AND TEACHING 534
IV. GROWING IMPORTANCE OF UNIFORM CONCEPTS 536
V. EUROPEAN PRINCIPLES OF CONTRACT LAW 537

I. PRELIMINARY REMARKS

The all-encompassing concept of "European law," comprising such divergent topics as the permitted bending of cucumbers, the shape of caterpillar seats, the requirements for practicing law and admission to the bar, uniform rules on the liability of innkeepers, harmonized rules on time-sharing contracts, as well as rules on auditing and bookkeeping, etc., is not only vast in content but also in regard to its sources. Therefore, I have to limit the subject matter of my contribution. Since this conference is devoted to Hans Baade in honor of his excellence both in teaching and practicing international law as a counselor and expert, I would like to narrow my topic to the profession of law professors and scholars. I will devote my contribution to the influence of the growing European law in general and the directives in particular on teaching and research. And, being a law school professor of private law, I have to cut back my topic even further and will deal with the growing importance of European private law, in particular the law of obligations—i.e. contracts, torts, and restitution—and how it has or should have changed teaching and scholarly research.

II. SOURCES OF EUROPEAN LAW

The instruments used to achieve approximation, harmonization, or unification of law are manyfold and well-known, so that I need not describe them in detail. The least

† Dr. jur., University of Freiburg, 1964; M.C.L., University of Chicago, 1965; Prof. of Civil, Foreign and Comparative Law, University of Heidelberg, 1971; Professor of Civil, Commercial, Foreign and Comparative Law, University of Freiburg, 1977; Dr. jur. honoris causae, University of Basel, 1995; Professor emeritus, 2000. The author accepts full responsibility for any errors.

ambitious attempt at unification or harmonization of law are model laws,[1] which are merely an invitation to national legislators to enact new laws or reform old ones in order to bring them in line with those of other countries. While such model laws, promulgated by the United Commission on International Trade Law (UNCITRAL), have become quite important on the international level, specific European model laws are rare.[2] However, the European Principles of Contract Law, which I will take up later, might become a very important model law for the unifying reform of domestic contract codes. Also, the UN Convention on the International Sale of Goods, although not intended to be only a model law, has served as a model for a number of domestic codifications—including several former socialist countries and Scandinavia—and for reform projects.[3]

Conventions, which come in many forms and differ in details that cannot be spelt out here, are classic instruments for unification or harmonization of law on an international level.[4] The Convention on the Inkeeper's Liability, elaborated and concluded by the member states of the Council of Europe in 1962 in order to facilitate tourism by implementing a uniform regime of liability for lost or destroyed luggage of hotel guests, is but one example.[5] More important is the Convention on the Recognition and Enforcement of Judgements,[6] which was concluded by member states of the European Community, but acceded to by European non-member states in the so-called Lugano Convention;[7] also worthy of mention here is the Rome Treaty on Uniform Conflict of Law Rules for Contractual Relations.[8] Although conventions may be effective as a vehicle for unifying or harmonizing the law, they have one great disadvantage: despite meticulous preparation, the signatory states are frequently reluctant to implement them and are "likely to drag their feet for many years before ratifying."[9] In addition, once ratified and enacted, it becomes very difficult to amend or improve conventions. It is, therefore, quite understandable that the European Community no longer intends to harmonize the conflict of law rules by a convention of its member states but rather by a so-called regulation.

The most important instruments are, of course, legal acts of the European Community which may "penetrate directly into the legal systems of its member states."[10] They are prepared and enacted by the organs of the European Community, i.e. the European Commission, the European Council, and the European Parliament in a complicated procedure of co-decision, producing general rules in the form of directives or regulations. Only the latter are directly binding for all citizens of member states. But they have been

---

1. *See* Heribert Hirte, *Wege zu einem europäischen Zivilrecht*, JENAER SCHRIFTEN ZUM RECHT 32 (1996).

2. Hirte regards model laws as an attractive alternative and regrets that it was neglected so far in Europe. *Id.* at 34, 35.

3. In September of last year, the German Ministry of Justice published its voluminous proposal to overhaul the German law of obligations to bring it in line not only with the recent directive on consumer sales, but also with the basic structures of the Convention on the International Sale of Goods.

4. *See generally* Ernst von Caemmerer, *Rechtsvereinheitlichung und Internationales Privatrecht*, *in* PROBLEME DES EUROPÄISCHEN RECHTS: FESTSCHRIFT FÜR WALTER HALLSTEIN ZU SEINEM 65. GEBURTSTAG 63–95 (Ernst von Caemmerer et al. eds., 1968).

5. Another example is the European Convention on Compulsory Insurance Against Civil Liability in Respect of Motor Vehicles, Apr. 20, 1959, 620 U.N.T.S. 119.

6. *See* 1968 Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (consolidated version), Nov. 29, 1986, 1998 O.J. (C 027) 1–27.

7. *See* Convention 88/592/EEC of 16 September 1998 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, 1988 O.J. (L 319) 9–33.

8. *See* Convention on the Law Applicable to Contractual Obligations (consolidated version), 1980 O.J. (L 266) 1–19.

9. Roy Goode, *International Restatements of Contract and English Contract Law*, 2 UNIFORM L. REV. 231, 232 (1997).

10. *Id.* (speaking of "supra-national law").

rarely used until now because of a limited competence in the EC treaty. As an example, the EC regulation on overbooking by airlines and its private law damage claims can be mentioned here.[11] In contrast, the directives have to be implemented by the national legislature, i.e. the parliaments of the member states, and usually are rather loosely knit, binding only in regard to their objectives and leaving the national legislature discretion as to how to achieve the objectives of the directive. The intended result, therefore, is often defined as "approximation," not "unification." It is the directives which up to now—i.e. until the next amendment of the EC treaty may bring perhaps more competence for direct regulations—contain the main bulk of the growing European private law of obligations, in particular, in the field of consumer protection. Examples include consumer credit,[12] consumer time-sharing contracts,[13] consumer contracts with distant sellers or service providers,[14] consumer sales,[15] package tours,[16] doorstep sales,[17] and unfair contract terms.[18] Outside the area of consumer protection—directives, e.g., on money transfer by non-consumers or on self-employed agents[19]—the elaborate rules for the organization of juridical entities such as corporations and limited liability companies have transformed the landscape of private and commercial law to an extent which 25 years ago was unimaginable and even today is not yet fully realized by many jurists including my own profession, i.e. law teachers. Although provisions of these directives have permeated almost the entire law of obligations, in our publications and in our teaching they lead a kind of life on the fringes; textbook writers and scholars are sometimes not only indifferent but outright hostile.[20] The rather reluctant reception of this growing body of European law by the academic community has several well-known explanations. Depending on one's own view, these reasons may be regarded as insurmountable obstacles or played down as of passing importance. The growing "common private law" by directives of the European Community is fragmented, incomplete, and sometimes contradictory because a general plan is missing. It could be said that the organs of the Community responsible for building the European house of private law began without a general plan and without any solid foundation. In addition, the technique of lawmaking is criticized as poor, since the respective directives often have their origin in different departments of the European Commission. As a consequence, concepts were used inconsistently and with different meanings. Finally, the new European rules were often incompatible with structures and systems of domestic law, so that their implementation wrought havoc, thereby impairing what one German scholar once called cultural monuments which should not be touched.[21] Since directives were not based on a common and general

11. *See* Council Regulation No. 295/91/EEC of 4 February 1991 Establishing Common Rules for a Denied-Boarding Compensation System in Scheduled Air Transport, 1991 O.J. (L 36) 5–7. The competence to enact regulations and directives was increased over the years by amendments of the EC treaty and will increase further. *See* HANS SCHULTE-NÖLKE & REINER SCHULZE, EUROPÄISCHE RECHTSANGLEICHUNG UND NATIONALE PRIVATRECHTE 14 (1999).

12. *See* Council Directive 87/102/EEC, 1987 O.J. (L 42) 48–53.

13. *See* Council Directive 94/46/EEC of 26 October 1994 on Time Share Agreements, 1994 O.J. (L 280) 83.

14. *See* Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the Protection of Consumers in Respect of Distance Contracts, 1997 O.J. (L 144) 19–27 [hereinafter Directive 97/7/EC].

15. *See* Council Directive 1999/44/EC, 1999 O.J. (L 171) 12–16 [hereinafter Directive 1999/44/EC].

16. *See* Council Directive 90/314/EEC, 1990 O.J. (L 158) 59–64.

17. *See* Council Directive 85/577/EEC, 1985 O.J. (L 372) 31–33.

18. *See* Council Directive 93/13/EEC, 1993 O.J. (L 95) 29–34.

19. *See* Council Directive 86/653/EEC, 1986 O.J. (L 382) 17–21.

20. *See* Pierre Legrand, *Against a European Civil Code*, 60 MOD. L. REV. 44, 53 (1997). Legrand chastises the EU bureacracy as consisting largely of uprooted civil servants often entertaining an ambivalent relationship with their national legal cultures (which Legrand, a Franco-Canadian, teaching at a Dutch law school, strongly advocates to preserve). For an adequate rebuttal, *see* Vincenzo Zeno-Zencovich, *The European Civil Code, European Legal Traditions and Neo-positivism*, 6 EUR. REV. PRIVATE L. 349, 353 (1998).

21. As to this, see SCHULTE-NÖLKE & SCHULZE, *supra* note 11, at 15.

structure of private law, but were instead issued in order to remedy certain unsatisfactory conditions impairing the functioning of a common market, or were designed to improve the protection of consumers in certain areas, they were regarded by law scholars and teachers, at best, as mere—and often unwanted—alien supplements to the existing domestic laws and, at worst, sacrileges, best to be ignored.

However, all of this is changing rapidly and profoundly. The changes have begun at the grass-roots level, that is, with teaching.

III. UNIFORM LAW BY ADJUDICATION AND TEACHING

As mentioned *infra*, the information on the growing body of European private law in most law schools is traditionally restricted to offering some supplements to the teaching of the respective field of domestic law. It is the exception that the supranational origin of certain rules and provisions implemented in domestic law on account of a directive or of an international convention is explored thoroughly. And it is rare that courses are offered on, for example, European contract law or European tort law, which are aimed not only at describing the different features of rules and provisions in the respective domestic systems, as done in the traditional comparative law courses, but also at striving to lay bare the common structures and to explain deviations from these common structures by analyzing the historical accidents or conscious policies of domestic lawmaking. This, in the eyes of an American observer, must be regarded as a severe shortcoming, since there is also a great diversity among state laws in the United States. Nevertheless, every lawyer having passed the legal education in a law school in a particular state and having gained some additional education in the laws of another state may be admitted to the bar and practice law in this other state because the law school has equipped him with a common core of legal concepts and structures as a basis to find the law in detail. The first question, therefore, is whether it would be possible to simply transfer this model to the curricula of European law schools. However, it is too simplistic to compare the diversity of state laws in the United States with the diversity of domestic legal systems in Europe, for the diversity—despite the efforts of approximation, harmonization, and unification—in Europe reaches much deeper and the common ground is much more restricted than in United States law. This is obvious with regard to language in general, and legal language in particular. Translation of legal concepts is often treacherous, in particular where you meet false friends, such as the concepts of mistake as a requirement for restitutionary claims, warranties, and duties of care.[22] Could we really hope for a common understanding of legal texts and concepts while speaking in eleven, and in the near future sixteen or more, official legal languages?[23] Furthermore, since "approximation" by directives means that the European member states do not have to implement the text of directives literally, but have only to achieve the goals and policies shaped in the directives, the text of a directive after implementation into the domestic systems may change considerably, and a foreign observer may have the impression of a cacophony of concepts and languages even in a field tilled by directives. This impression is even stronger if one considers not just one directive and its linguistic fate in the course of implementation, but rather several directives, for—as mentioned already as a topic of criticism—very often they differ even in regard to key concepts such as consumer or consumer transaction. Since the legal acts of the community, in particular the directives

22. As to the linguistic problems, *see* Hans Schulte-Nölke, *Elf Amtssprachen, ein Recht? Folgen der Mehrsprachigkeit für die Auslegung von Verbraucherschutzrichtlinien*, *in* AUSLEGUNG EUROPÄISCHEN PRIVATRECHTS UND ANGEGLICHENEN RECHTS 143–60 (Reiner Schulze ed., 1999).

23. *See id.*

in the field of private law, are not being coordinated by an overall design, their implementation into the multifarious domestic laws seems to make matters worse. The diversity of languages and concepts would do less harm if the European domestic systems of private law themselves would follow a common plan, or would at least have strong common roots, so that the implementation of European law could be fitted into a common pattern. But this is lacking, and the consequences are sometimes embarrassing. The lack of a common ground, i.e. common structures and concepts of European law, not only causes inconsistencies in the directives themselves, but also in the process of implementing them into domestic laws. A recent example is the directive of contracts with distant sellers or service providers,[24] which contains a provision that the consumer, as recipient of goods or services which he has not solicited, will be exempted "from the provision of any consideration . . . the absence of a response not constituting consent."[25] It is very clear that this provision should protect the consumer who is to become bound contractually by using a product or a service sent or rendered to him without his solicitation or consent. Yet, since there is no European concept of "consideration" on which the national legislatures could rely in translating and implementing this directive, the German legislature, in implementing this directive in the new § 241(a) of the Civil Code (the BGB), changed "consideration" to "an obligation."[26] The scope of this provision has thereby been expanded far beyond the legitimate aims of the directive, for now the recipient of unsolicited goods could, if this provision is applied literally, destroy them wantonly without having to pay damages, could resell them without having to disgorge the profits, and could retain them if the sender or service provider wants them back. The proverbial stroke of the legislature's pen, which is supposed to render whole law libraries obsolete, was performed here by a blindfolded drafter.[27]

This example highlights the pitfalls of developing a European private law without a master plan of key concepts and structures. Not even among those continental states whose legal systems are influenced by Roman law could one trust seemingly similar concepts, for the Roman heritage, which was regarded as *ius commune* of the European states until the age of codification, is fading and is no longer a reliable common ground.

Nevertheless, I hope, and I am even convinced, that despite the seemingly chaotic diversity of domestic laws and barely consistent legal acts of the European Community, the foundations of a common European private law are being laid and strengthened. My hope is based on the observations that follow.

In the field of legal texts based on directives or regulations of the European Community, and with regard to certain international conventions, hope can be built on the competence of the European Court of Justice in Luxemburg, which is charged with and is competent to secure a common interpretation and understanding of the respective rules and provisions. It may prove to be the most important instance to achieve a common European law, and other European courts, presenting respective questions to the European Court of Justice, may help in this process called "Europeanization by interactive adjudication" by one of my colleagues.[28]

---

24. *See* Directive 97/7/EC, *supra* note 14, art. 9.

25. *Id.*

26. *Id.*

27. See the criticial analysis of Matthias Casper, *Die Zusendung unbestellter Waren nach § 241a BGB*, ZEITSCHRIFT FÜR WIRTSCHAFTSRECHT 2000, 1602–09 (2000).

28. Christian Joerges, *Interactive Adjudication in the Europeanization Process? A Demanding Perspective and a Modest Example*, 8 EUR. REV. PRIVATE L. 1 (2000).

Besides the importance of the unifying role of adjudication, teaching is becoming essential to this process of "unifying the European law." To do this, however, we need to first cut roads through the jungle and create a roadmap on which the teaching of European law could be based. There are eminent comparative law treatises, monographs, and even encyclopedias in this field,[29] and without exaggeration one can speak of a growing transnational academic community of law scholars.[30] But only a few of these publications are useable as textbooks in teaching us, such as the works of Professor Markesinis.[31] And, since the basis of our teaching is still the national language with its legal preconceptions, even these few really valuable comparative law treatises and hornbooks have to rely to a large extent on the translation of concepts or have to hope for multilingual students. What is needed, in other words, are courses teaching European law in a *lingua franca* of legal concepts, which no longer need to be translated into concepts of domestic legal systems, because they either have a binding force and application of their own, or even better, have incorporated into the domestic legal systems and their language.

IV. GROWING IMPORTANCE OF UNIFORM CONCEPTS

Despite the well-founded skepticism against directives as a source for an upcoming European *ius commune* in general and a useful basis for teaching it in law school, I think that there is a nucleus of concepts in some of the central private law directives which may be very well used as crystallizing cores for rules and solutions in their respective fields. One example is the products liability directive of 1985,[32] which has long been implemented in all member states of the European Community. Criticism, which at first was quite vociferous, but mainly articulated by interested organizations such as associations representing manufacturers or retailers, has become mute in the meantime. The concept of a defect of goods in particular, based on the expectation test mentioned by Dean Powers, which is the focal point for liability, has not only found widespread acceptance in domestic laws, too, but seems to have proved itself as a basic concept to encode the prerequisites of extra-contractual liability in general, i.e. outside the field of products liability. But it is not by accident that the products liability directive became such a laudable and influential piece of European legislation. Contrary to many other directives, it was based on proposals of a commission consisting of the leading scholars on tort law from all those European countries which were member states during the time of the preparation of this directive. The key concepts of this directive, therefore, were the result of serious and thorough analysis of the

29. *See* CHRISTIAN VON BAR, 1 THE COMMON EUROPEAN LAW OF TORTS: THE CORE AREAS OF TORT LAW, ITS APPROXIMATION IN EUROPE, AND ITS ACCOMODATION IN THE LEGAL SYSTEM (1998); CASES, MATERIALS AND TEXT ON NATIONAL, SUPRANATIONAL AND INTERNATIONAL TORT LAW, SCOPE OF PROTECTION (Walter van Gerven et al. eds., 1998); HEIN KÖTZ, 1 EUROPEAN CONTRACT LAW: FORMATION, VALIDITY, AND CONTENT OF CONTRACTS, CONTRACT AND THIRD PARTIES (Tony Weir trans., 1997) (1996); *see also* ULRICH DROBNIG, PRIVATE LAW IN THE EUROPEAN UNION (1996); MARTIN GEBAUER, GRUNDFRAGEN DER EUROPÄISIERUNG DES PRIVATRECHTS (1998); STEFAN GRUNDMANN, EUROPÄISCHES SCHULDVERTRAGSRECHT (1999); IRENE KLAUER, DIE EUROPÄISIERUNG DES PRIVATRECHTS (1998); CONOR QUIGLEY, 1 EUROPEAN COMMUNITY CONTRACT LAW: THE EFFECT OF EC LEGISLATION ON CONTRACTUAL RIGHTS, OBLIGATIONS AND REMEDIES (1997); Reinhard Zimmermann, *Civil Code and Civil Law: The "Europeanization" of Private Law Within the European Community and the Re-emergence of a European Legal Science*, 1 COLUM. J. EUR. L. 63 (1994/95).

30. *See* Christoph Schmid, *Anfänge einer transnationalen Privatrechtswissenschaft in Europa*, ZEITSCHRIFT FÜR RECHTSVERGLEICHUNG 213 (1999).

31. BASIL S. MARKESINIS, 1 THE LAW OF CONTRACTS AND RESTITUTION: A COMPARATIVE INTRODUCTION, (1997); BASIL S. MARKESINIS, FOREIGN LAW & COMPARATIVE METHODOLOGY (1997).

32. Council Directive 85/374/EEC of 25 July 1985 on the Approximation of the Laws, Regulations and Administrative Provisions of the Member States Concerning Liability for Defective Products, 1985 O.J. (L 210) 29.

solutions of the domestic laws of European states, as well as of American products liability law, and the result was not an agreement on the lowest common denominator or a shot from the hip by an all-too-eager bureaucrat in Brussels, but one guided by the spirit of finding the best solution.

I am convinced that the new directive of 1999 on consumer sales[33] may also become another core of crystallization, this time for the law of contract and breach of contract. This directive has shortcomings, which have already been severely criticized, but it also contains a definition of non-conformity of goods—in American legal terms, warranties and what constitutes their breach—which is universally acceptable and may be used as a blueprint for other types of contracts and for what constitutes an aggrievement for one of the parties, i.e. a breach of contract. The deficiencies of this directive are to be found mainly in the area of remedies, because the drafters did not dare to tackle the most important remedy, i.e. actions for damages, while the remedy of price reduction, familiar to most continental legal systems, might be difficult to swallow by common law jurists. But again there are particular reasons as to why this directive, despite its shortcomings, might be regarded as a very important step forward to a system of common concepts and convictions.[34] It was not conceived, as are so many other directives, by a few persons, or even a single person, in the huge bureaucracy of the European Commission. Instead, it is based on the United Nations Convention on the International Sale of Goods, which in turn is based on an exhaustive scholarly analysis and comparison of all of the sales laws in the world. Those who drafted the structures and rules for an international set of rules law abstained, more or less, from fighting for their own domestic solutions or, even worse, special interests, but shared an overriding conviction that the best solution was to be found and put into black-letter rules, regardless of origin.

There are, in other words, hopeful signs. In teaching European private law, the outlining of the basic structures and concepts of these isolated segments of European law, i.e. legal acts of the Community and conventions of its member states, cannot suffice, however. We shall not wait for the results of the slow and, for political reasons, often erratic process of promulgating legal acts of the European Community and conventions of its member states.

V. EUROPEAN PRINCIPLES OF CONTRACT LAW

While twenty-five years ago the idea of a European civil code would have been ridiculed or regarded as a *fata morgana*,[35] the prospect of such a uniform law nowadays seems to be very real and achievable. Since 1982, a group of scholars encouraged and backed by the European Parliament has been preparing a draft for a European contract law code, preparations which have resulted, so far, in the publication of principles of European contract law.[36] A somewhat parallel project is pursued by the Academy of European Private Lawyers in Pavia. An even more ambitious project of a Draft for a European Civil Code, not restricted to sales and service contracts, but comprising also torts, restitution, *negotiorum gestio*, secured transactions, and financial services, was launched more than two

33. *See* Directive 1999/44/EC, *supra* note 15.

34. *See* Andreas Schwartze, *Die zukünftige Sachmängewährleistung in Europa—Die Verbrauchsgüterkauf-Richtlinie vor ihrer Umsetzung*, 2000 ZEuP 544, 574 (suggesting that Council Directive 1999/44/EC could serve as a Model Code for uniform European breach of warranty provisions).

35. Christian Joerges, *Editorial and Acknowledgement*, 8 EUR. REV. PRIVATE L. vii (2000).

36. PRINCIPLES OF EUROPEAN CONTRACT LAW (Ole Lando & Hugh Beale eds., 2000). For a short introduction, see Ole Lando, *Optional or Mandatory Europeanization of Contract Law*, 8 EUR. REV. PRIVATE L. 63 (2000).

years ago.[37] So far, however, there is no political body or organization competent to enact a European civil code. Whether the European organizations, namely the Community and the Union, and in particular the European Parliament, will be granted competence to enact a civil code is quite uncertain and a matter of the development of the European Community and its political destiny. But whether these endeavors will result in a codification of a uniform private law or not, the products of these noble ambitions provide excellent materials for teaching European law. The elaboration of these drafts was, and is, guided by the common conviction and devotion to find the best solutions after analyzing all existing domestic rules and provisions, and the comments are a treasure trove of comparative law material. Thus, these principles offer a very helpful tool for teaching, conveying not only the solutions agreed upon, but also insights as to solutions discarded. This process trains the students' awareness of interests, policies, and technical instruments of the law of obligations and keeps a healthy, while critical, distance, yet at the same time providing a better understanding of the solutions of their domestic systems still in force. Here, therefore, may be found the basis of the European private law of tomorrow to be taught to future jurists today.

All this is just the beginning of what, for American students and law professors, goes without saying—namely, that legal education should enable the students to find and understand the law of all other states. Many steps have to follow, not the least including more textbooks and treatises for these types of courses, but also a re-thinking and re-evaluation of traditional convictions about what should be taught in law schools. If it were possible, however, to teach at first European law and only then go on to convey details of one's own domestic legal system, one might hope that the shortcomings of directives—if directives are still used to harmonize the law in Europe—will, if they do not vanish altogether, become more limited and rare. This I dare hope because those drafting directives will have the background of an education in basic and common structures of the European legal systems and will no longer—as is often the case nowadays—proceed from their own domestic law, which, because of the traditional one-sided education, still seems to be the best because one does not know anything else.

It is this spirit of legal education and its goals that Hans Baade has practiced since he stood behind the lectern for the first time that has made the honorable task entrusted to me as a panelist here very easy, since I could propose and propagate an approach to transnational law that Hans Baade has followed all of his life and academic career.

37. *See* Reinhard Zimmermann, Die "Principles of European Contract Law," Teile I und II, 2000 ZEITSCHRIFT FÜR EUROPÄISCHES PRIVATRECHT 391 at 393. Three working groups are preparing rules and comments on "Sales and Services," "Extra-contractual Obligations (Torts, Restitution and *negotiorum gestio*)," and "Secured Transactions and Financial Services." As yet, no detailed drafts or reports have been published.