

Pre-contractual Liability in English and French Law

Paula Giliker

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Precontractual Liability In English And French Law

Yan Bai



Precontractual Liability In English And French Law:

Pre-Contractual Liability in English and French Law Paula Giliker, 2002-08-23 This book examines the nature of precontractual liability in English and French law focusing on the difficult but practically important question of liability for services performed in anticipation of a contract

Culpa in Contrahendo Jörg Benedict, 2018-08-13 English summary In the Roman law tradition up to Savigny culpa was not considered to be a causa obligationis Rudolf v Jhering rejected this dogma 150 years ago His adiscovery of culpa in contrahendo finally introduced a general basis for liability in legal relations based on nothing but bona fides good faith However the stage at which precontractual reliance becomes worthy of protection is not yet defined In this study the author explores why culpa in contrahendo is nevertheless still retained German description Die culpa in contrahendo gilt als die nachhaltigste aller juristischen Entdeckungen und in dieser Konnotation steht sie für die juristische Kreativität und Leistungsfähigkeit der deutschen Zivilrechtswissenschaft schlechthin Vor 150 Jahren von Rudolf v Jhering ins juristische Dasein gerufen haben ihre immer ausgedehnteren praktischen Anwendungsbereiche aus einer anfänglich blossen begrifflichen Idee ein mittlerweile nicht mehr überschaubares Rechtsinstitut werden lassen Dabei klafft seit jeher ein Graben zwischen der praktischen Anwendungsbreite einerseits und einer überzeugenden wissenschaftlichen Begründung andererseits Eine sichere dogmatische Eingrenzung dieser sogenannten adritten Haftungsspur zwischen Vertrag und Delikt ist bisher nicht gelungen und darüber vermag auch der Umstand nicht hinwegzutauschen dass die avorvertragliche Haftung jedenfalls in Deutschland seit der Schuldrechtsreform 2002 Gesetzeskraft genießt Wegen ihrer rechtstheoretischen Unfasslichkeit gilt die culpa in contrahendo manchen auch weniger als ein Zeugnis juristischer Wissenschaftlichkeit denn als awandelnder Irrwisch und Ausdruck einer diffusen Billigkeitsjurisprudenz Der vorliegende erste Teil der auf zwei Bände angelegten Studie bemüht sich um eine grundlegende und ganzheitliche Bestandsaufnahme dieses wichtigen Haftungsinstituts Der umfassende methodologische Ansatz der rechtshistorische philosophische vergleichende ökonomische und rechtsdogmatische Perspektiven einbezieht ermöglicht nicht nur die prägenden geistigen Kräfte hinter der jeweils akzeptierten dogmatischen Haftungskonstruktion sondern auch Transformationen und Kontinuitäten im Zivilrechtsdenken seit der Römischen Antike aufzuzeigen

Precontractual Liability under the Portuguese, German and French Legal Systems Elouisa Müller, 2020-06-25 Seminar paper from the year 2020 in the subject Law Comparative Legal Systems Comparative Law grade 15 20 language English abstract On a daily basis contracts are concluded between natural or legal persons Therefore many legal subjects have to enter into the precontractual phase of negotiations that eventually lead to a conclusion or a failure of the treaty As first outlined by Jhering in 1861 the precontractual phase can establish a legal relationship in which precontractual obligations have to be respected In the following the precontractual liability under the German French and Portuguese law will be compared After an analysis of the historical origin of the precontractual liability in general and the presentation of the historical developments in

Germany France and Portugal the legal problem that needs a regulation in the legal orders will be defined Furthermore in the comparison of the regulatory framework the similarities and differences of the current legislations in the three states will be examined based on various criteria such as the legal basis the concrete precontractual duties and the relevance of the good faith Apart from comparing compensable damages the legal institutes in those states will be classified Before summing up the comparison of the roots and the legal institute by also including a grid of the main comparative aspects important cases will be presented to understand the development of the precontractual liability in Germany France and Portugal

The Transformation of European Private Law James Devenney, Mel Kenny, 2013-10-24 This book emanates from a duo colloquium which explored the Europeanisation of private law in the context of efforts to consolidate the consumer acquis the Draft Common Frame of Reference the appointment of an Expert Group on a Common Frame of Reference in the area of European contract law the passage of the Consumer Rights Directive and the proposed Common European Sales Law This book with fully updated contributions critically reflects on whether the process of Europeanisation which has shaped private law in the EU Member States has now reached a significant turning point in its development a point of punctuated equilibrium Written by a team of leading authors the topics covered will be of concern in all European legal systems and beyond

Formation and Third Party Beneficiaries Mindy Chen-Wishart, Alexander Loke, Stefan Vogenauer, 2018-01-19 Studies in the Contract Laws of Asia provides an authoritative account of the contract law regimes of selected Asian jurisdictions including the major centres of commerce where limited critical commentaries have been published in the English language Each volume in the series aims to offer an insider's perspective into specific areas of contract law remedies formation parties contents vitiating factors change of circumstances illegality and public policy and explores how these diverse jurisdictions address common problems encountered in contractual disputes A concluding chapter draws out the convergences and divergences and other themes All the Asian jurisdictions examined have inherited or adopted the common law or civil law models of European legal systems Scholars of legal transplant will find a mine of information on how received law has developed after the initial adaptation and transplant process including the mechanisms of and influences affecting these developments At the same time many points of convergence emerge These provide good starting points for regional harmonization projects Volume II of this series deals with contract formation and contracts for the benefit of third parties in the laws of China India Japan Korea Taiwan Singapore Malaysia Hong Kong Korea Vietnam Cambodia Thailand Indonesia and Myanmar Typically each jurisdiction is covered in two chapters the first deals with contract formation while the second deals with contracts for the benefit of third parties

International Contracting Larry A. DiMatteo, 2021-11-05 For well over a decade this prized guide has served practitioners handling the legal ramifications of international contracting projects The fifth edition expands on issues discussed in the earlier one along with new topics that continue to redefine the researching drafting and execution of international contracts All the invaluable features of earlier editions are of course still here

including analysis of key contract issues unique to various types of contracting common contract clauses contract checklists insights gleaned from actual cases and arbitral proceedings and clear explanation of the principles of good contract drafting The major relevant international conventions model laws pertinent national laws legal guides and other documents and instruments are all covered with primary texts provided in the appendices Some of the new issues and topics covered include new potential causes of force majeure and hardship pandemics and BREXIT review of Incoterms 2020 new clauses covered anti slavery exclusion interpretation no waiver sub contracting sustainability clauses among others rise of new international commercial courts legaltech smart contracts and artificial intelligence ethics implementation of technology in legal practice enforceability of penalty clauses Internet sales and agency contracts long term contracts and goodwill compensation data protection and the General Data Protection Regulation GDPR alliance collaboration and cooperation agreements noncompete and nonsolicitation clauses e mail disclaimers and separation and release agreements The book acts as a single volume reference in the negotiating and drafting of international contracts and offers expert insights regarding the reasonableness of many contract clauses and the likelihood of their enforcement in a foreign jurisdiction An adroit combination of contract theory and contract practice the book continues to provide guidance to law practitioners and students alike International Contracting is an excellent single volume reference that highlights the different issues relating to a variety of contracts I recommend it to drafting attorneys writing domestic as well as transborder contracts Christopher E Howard complex commercial transactions and development projects Managing Partner Pierce Atwood LLP Portland Maine The latest edition of Professor DiMatteo s International Contracting constitutes a broad yet detailed coverage of international contract law and laws as well as international practice It drills down into the level of detail that supplies invaluable practical guidance of the sort not to be found in other publications Professor Michael G Bridge London School of Economics International Contracting is an ideal source for practitioners whether of the civil or common law It also provides a concise review of international contracting issues and practices for the scholar and student interested in this area of law I highly recommend it as a general resource on the topic Michel Cannarsa Dean Professor Lyon Catholic University

Precontractual Liability: Reports to the XIIIth International Congress of Comparative Law, Montreal, Canada, 18-24 August 1990 E. H.

Hondius, 1991-07 This book contains a general report and national reports on the subject of Precontractual Liability The national contributions on the subject of precontractual liability have been organized in accordance with a structured questionnaire by the Editor They cover an introduction and a variety of subjects such as tort violation of duty utmost good faith termination of negotiation estoppel preliminary agreements etc Apart from a general report this book contains national contributions from the following countries Australia Austria Belgium Canada Czechoslovakia Denmark France Germany Great Britain Israel Italy Japan The Netherlands New Zealand Puerto Rico Sweden Switzerland Turkey United States and Yugoslavia **English, French & German Comparative Law** Raymond Youngs, 2007 Examining three aspects of law in

three major European jurisdictions this comparative analysis considers the differing approaches to common areas of law in England France and Germany In particular the sources of law legal rules against the state in order to prevent abuse of state power and the state s mechanism of compulsion by private individuals and organisations against each other are examined and compared while the system of courts is also considered Fully updated and revised each sub topic is introduced with the relevant material in the English system allowing easy comparison and assimilation of the other systems The text includes translations of relevant French and German codal material and references to a wide variety of relevant cases from all the jurisdictions This new edition has been brought right up to date and includes the incorporation of the European Convention on Human Rights devolution in the UK revisions to the Civil Code in Germany and a wide variety of new case law Designed for undergraduates on a comparative law course this textbook will also prove valuable to students who are familiar with English law but require a good introduction to French or German law

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Rechtswissenschaft, einschliesslich der ethnologischen Rechtsforschung, 1992 **Commentaries on European Contract Laws** Nils Jansen, Reinhard Zimmermann, 2018-07-12 The book provides rule by rule commentaries on European contract law general contract law consumer contract law the law of sale and related services dealing with its modern manifestations as well as its historical and comparative foundations After the collapse of the European Commission s plans to codify European contract law it is timely to reflect on what has been achieved over the past three to four decades and for an assessment of the current situation In particular the production of a bewildering number of reference texts has contributed to a complex picture of European contract laws rather than a European contract law The present book adopts a broad perspective and an integrative approach All relevant reference texts from the CISG to the Draft Common European Sales Law are critically examined and compared with each other As far as the *acquis commun* ie the traditional private law as laid down in the national codifications is concerned the Principles of European Contract Law have been chosen as a point of departure The rules contained in that document have however been complemented with some chapters sections and individual provisions drawn from other sources primarily in order to account for the quickly growing *acquis communautaire* in the field of consumer contract law In addition the book ties the discussion concerning the reference texts back to the pertinent historical and comparative background and it thus investigates whether and to what extent these texts can be taken to be genuinely European in nature ie to constitute a manifestation of a common core of European contract law Where this is not the case the question is asked whether and for what reasons they should be seen as points of departure for the further development of European contract law Tilburg Foreign Law Review ,2002 *Bases of Liability in the Pre-contractual Context* Paula Rosalind Giliker, Cambridge Univ. (GB), 1994 Rabels Zeitschrift für ausländisches und internationales Privatrecht ,2004 The George Washington journal of international law and econo ,1983 *Corporate Counsel's Annual* Harold Friedman, Herbert S. Schlagman, 1985 **Current Publications in Legal and Related Fields**

,2003 **International Encyclopedia of Comparative Law: Contracts in general** ,1973 *Bases of Liability in the Pre-contractual Context* Paula Rosalind Giliker,1994 **The Civil Law System** Arthur Taylor Von Mehren,James Gordley,1977 Formation of Contracts and Precontractual Liability ,1990 Papers originally presented at a symposium organized by the Institute of International Business Law and Practice

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