A Common Frame of Reference for European Private Law—Academic Efforts and Political Realities

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I. THE AIMS AND PURPOSES OF THE COMMON FRAME OF REFERENCE

Today's keyword for the Europeanisation of Private Law is the "Common Frame of Reference", an expression which, although it looks alien at first sight, covers surprisingly well what we are hoping to achieve. That is a text serving as a source of inspiration for law making and law teaching at all levels. We, the academic teams that in 2005 contracted with the European Commission to deliver up by the end of 2007 a first draft of the Academic Common Frame of Reference, hope to bring about a framework set of annotated rules to which the European and national legislators and the European and national courts, including arbitral tribunals, can refer to when in search for a commonly acceptable solution to a given problem. This "Common Frame of Reference" is also drafted with a view to allowing parties to a contract, whether cross-border or purely domestic, to incorporate its contents into their agreement. The CFR is for helping SMEs in doing business, in

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particular doing business abroad, and it is for strengthening the consumer's trust in the good functioning of the Internal Market when buying goods or ordering services from a business situated in another country. Even if the Common Frame of Reference were not to be turned into applicable law and were to remain something like a set of standard terms, it could serve a useful purpose, the only difference then being that, if agreed upon by the parties, it would remain subject to the applicable *ius cogens*. But that as such would not make much difference, because we are already integrating into our texts, with the help of our sister Group, the so-called Acquis Group, all the relevant EU instruments on consumer protection via contract, tort and unjustified enrichment law.

And there are, on our side, other hopes connected with the drafting of a "Common Frame of Reference". One is that for the first time for approximately 200 years students from all over Europe could be taught parts of the law in all European universities on the basis of an identical text. Whether they go to Uppsala, Edinburgh, Budapest or Amsterdam, they could be sure that for at least one or two terms they would study there exactly what they would have studied at home. And finally: Europe is the home continent of private law. We as a Union should have something on offer not only because so many of our own national private law systems are hopelessly outdated, but because other parts of the world are looking at us as well and wondering whether we can convincingly contribute to their needs to modernise their private law systems. Europe had not much to say when Russia looked for something non-American; Africa is suffering from a lack of justice; China is working on a Civil Code. Lawyers from Korea, Japan, China and other countries in that region are thinking of founding a Commission on East Asian Contract Law aiming at the formulation of Principles of East Asian Contract law. For a member of the former Commission on European Contract Law (the Lando Commission) that does indeed sound rather familiar!

Whether (and if so which) of these ideas are shared by the constitutional organs of the Community and its Member States is, however, quite another matter. It seems to me that the many resolutions issued by the European Parliament were drafted and decided upon in exactly the same spirit. One has to admit, however, that the *Plenum* as such never discussed the issue. That, we hope, will follow when Commission and Council have made up their minds whether they want to bring about and proclaim a "political" Common Frame of Reference. That latter decision, I assume, will then be followed step by step by further decisions as to the purposes, coverage and structure of the CFR. At present, however, the political priorities are still rather unclear, and

that leaves room for much speculation. All sorts of possible answers to these questions are discussed and circulated, in official communications, in quasi-official announcements at conferences organised by the relevant EU presidency, and in speeches delivered on many occasions and in many places all over the Continent. The European Commission itself invented the "toolbox function" of the CFR[1], by which, I think, is meant a text helping Commission civil servants to improve the internal coherence between directives on consumer protection in contract law. Nobody will be against that, but with all due respect one wonders a bit whether the toolbox model is nothing but a synonym for a first class funeral to another important aspect of the CFR idea. The latter certainly implies its potential to serve as an "Optional Instrument", i.e., as an independent regime of contract law, additional to the Member States' systems, to which parties to a cross-border contract can opt in if they so wish. Whether or not that CFR function is still on the political agenda I cannot say. The deletion of article 3(2) of the draft Rome I Regulation is not too promising a signal, but it is also not the end of that story.

However, there are also voices that are aiming at something completely different. Some believe that a dictionary would do the job, a mere terminology list with definitions of, say, "contract", "damage", "set-off" and so forth. Yet another group of colleagues and stakeholders are determined to fight the Common Frame of Reference wherever the idea is discussed; these colleagues regard it as either superfluous or even dangerous, an instrument, it is said, which will ruin national legal cultures or, closer to home, reduce certain knowledge-based advantages in the market for providing legal advice. But there are also those who ask us why we stick to the European Union or why we stick to the law of obligations and certain areas of property law, but do not touch upon the law of natural and legal persons, matters of family law and succession, and immovable property law. The discussion is lively, controversial and emotional. Europe as a whole has begun a discussion on its private law, and that, I think, does all of us good.

II. A COMMON FRAME OF REFERENCE, NOT A EUROPEAN CIVIL CODE

As chairman of the Study Group on a European Civil Code, which is heavily involved in the drafting of the Academic and therefore "Draft" Common Frame of Reference, I should pause for a moment and make

1. Communication from the Commission to the European Parliament and the Council: European Contract Law and the Revision of the Acquis: The Way Forward, COM(2004) 651 final, 11 Oct. 2004, *available at* http://europa.eu.int/eur-lex/de/com/cnc/de_cnc_month_2004_10.html.

one point 'parenthetically', and that is that one should not lose any time on the question whether or not all of this is "in reality" about the creation of a European Civil Code. The "reality" is that it does not matter whether one responds to this in the positive or in the negative. It clearly has to be answered in the negative if by a "European Civil Code" we mean a legislative instrument like the *Code Napoléon*, the *Codice civile* or the *Bürgerliches Gesetzbuch*. That is definitely not the idea, not even mine! (My reasons for that, however, would have nothing to do with political or "diplomatic" considerations of any sort; I simply believe that such a major step requires more time and more detailed knowledge about each other's systems than we possess today.) But the question of the European Civil Code could equally be answered in the positive if the Common Frame of Reference were to become a success and be used at least for some of the purposes I mentioned earlier. The reason is quite simply this: there is today no pan-European notion of a "Code". Community law is full of the strangest sorts of "codes", on customs for instance[2], on pharmaceuticals[3], on drugs for animals[4], on the crossing of borders by natural persons[5] and on visas[6]. France calls many a mere collection of statutes a "Code"; the UK has its "Highway Code"; Bulgaria, Estonia and Slovenia have "Law of Obligations Acts", although, given their all-embracing coverage, they are perfect "Codes", and so on and so forth. There is, in other words, no reason against also calling the Common Frame of Reference a "Code". But I have learned my lesson: if we want to achieve something, if we wish to convince lawyers that a common basis for private law in whatever legal format is a good idea, we must avoid the notion of a "European Civil Code" at nearly any cost; it raises emotions and fears which for the time being are impossible to overcome. That is another reason why the concept of a "Common Frame of Reference" is not that bad. It is worth pursuing; it has the charm of the unknown and, at least on the face of it, the politically innocent.

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2. Council Regulation (EEC) No 2913/92 of 12 October 1992 Establishing the Community Customs Code.

3. Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code Relating to Medicinal Products for Human Use.

4. Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code Relating to Veterinary Medicinal Products.

5. Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 Establishing a Community Code on the Rules Governing the Movement of Persons Across Borders (Schengen Borders Code).

6. Annex to the Draft Proposal for a Regulation of the European Parliament and of the Council Establishing a Community Code on Visas: Summary Impact Assessment, COM(2006) 403 final, SEC(2006) 957.

III. DRAFTING STYLE AND COVERAGE

We, the academic research teams, had of course begun our deliberations and work long before the political discussion started. The latter's ignition is difficult to ascertain. Perhaps one should refer to the first EU Parliament resolutions, perhaps more realistically to the conclusions of the Tampere summit of heads of state in 1999, perhaps to the various Commission communications from 2001 onwards. But the Lando Commission had already started in 1982, and when we founded the Study Group in 1998 we decided of course (and with the express approval of the Lando Commission whose successor group we are) to build our work on the Principles of European Contract Law (PECL). We had not asked for European funding, by the way; all of our financing up to 2005 came from national research councils and foundations. So we adhered more or less to the drafting style of the PECL, with a few exceptions in regard to the commentaries and the range of comparative information, which we managed to improve considerably. It is contained in comparative introductions to each subject and in extensive notes, many of them also covering the law in the new Member States.

Whichever word you might now find appropriate, it can hardly be doubted that the drafting style of the PECL is more or less that of a Restatement and as such not too far away from the drafting style of a traditional "Civil Code". We use that drafting style as a method of expressing our ideas, of summarising what we found in the existing national laws and in the *acquis communautaire*, and of testing whether it is possible to draft at least *one* coherent set of rules of European private law. There might be other methods of achieving this goal, but so far no one has tried them or even proved that they would also work. We know of the many varied drafting styles to be found in present day Europe's legislation; we are aware of different national methodologies. But that, we thought, should not prevent us from testing our own approach. And we remain curious and eager to learn from the discussion that will hopefully follow the publication of the interim outline edition of our Principles, Definitions and Rules of European Private Law early in 2008.

You certainly know that today (June 2007) six academic publications with relevance for the Academic Common Frame of Reference have seen the light of day. There are the two volumes of the Lando Principles[7], now translated into many a language[8]; and there are

7. PRINCIPLES OF EUROPEAN CONTRACT LAW PARTS I AND II. PREPARED BY THE COMMISSION ON EUROPEAN CONTRACT LAW (Ole Lando & Hugh Beale eds., The Hague 1999);

four books in our SGECC series on Principles of European Law (PEL), covering Marketing Relationships[9], Service Contracts[10], Personal Security Contracts[11], and Benevolent Interventions in Another's Affairs[12]. A first volume to be published by the Acquis Group on Pre-contractual Obligations, Conclusion of Contract and Unfair Terms has gone to print. Further books in both of the latter two series will follow. We hope that within the SGECC/PEL series Sales Law and Contracts for the Lease of Goods will appear later in the year, to be followed in 2008 at least by Unjustified Enrichment Law and the law regarding Non-contractual Liability Arising out of Damage Caused to Another. Other subjects are in the pipeline, i.e., Mandate Contracts, and Contracts for Donation within the SGECC/PEL and Performance, Non-Performance and Remedies within the Acquis Group series. In 2009 we hope to conclude our efforts by adding our proposals in regard to Loan Agreements and to property law, i.e., SGECC/PEL on Transfer of Ownership, Proprietary Security in Moveable Property and Trust Law.

PRINCIPLES OF EUROPEAN CONTRACT LAW PART III (Ole Lando, Eric Clive, André Prüm and Reinhard Zimmermann eds., The Hague, London & Boston 2003).

8. Such translations are available, *inter alia*, in French (Principes du droit européen du contrat, version française préparée par *Georges Rouhette*, avec le concours de *Isabelle de Lamberterie, Denis Tallon et Claude Witz*, Droit privé comparé et européen, vol. 2, Paris 2003); German (Grundregeln des Europäischen Vertragsrechts, Teile I und II, Kommission für Europäisches Vertragsrecht. Deutsche Ausgabe von *Christian von Bar und Reinhard Zimmermann*, München 2002; Grundregeln des Europäischen Vertragsrechts Teil III, Kommission für Europäisches Vertragsrecht. Deutsche Ausgabe von *Christian von Bar und Reinhard Zimmermann*, München 2005); Italian (Commissione per il Diritto Europeo dei Contratti. Principi di Diritto Europeo dei Contratti, Parte I & II, Edizione italiana a cura di *Carlo Castronovo*, Milano 2001; Commissione per il Diritto Europeo dei Contratti. Principi di Diritto Europeo dei Contratti, Parte III. Edizione italiana a cura di *Carlo Castronovo*, Milano 2005) and Spanish (Principios de Derecho Contractual Europeo, Partes I y II. Edición española a cargo de *Pilar Barres Bennloch, José Miguel Embid Irujo, Fernando Martínes Sanz,* Madrid 2003). For further translations (sometimes of the articles of Books I and II only), see http://frontpage.cbs.dk/law/commission_on_european_contract_law/index.html.

9. PRINCIPLES OF EUROPEAN LAW. STUDY GROUP ON A EUROPEAN CIVIL CODE. COMMERCIAL AGENCY, FRANCHISE AND DISTRIBUTION CONTRACTS (PEL CAFDC). PREPARED BY MARTIJN W. HESSELINK, JACOBIEN W. RUTGERS, ODAVIA BUENO DÍAZ, MANOLA SCOTTON, MURIEL VELDMANN (Sellier, Bruylant, Staempfli, Oxford Univ. Press 2006).

10. PRINCIPLES OF EUROPEAN LAW. STUDY GROUP ON A EUROPEAN CIVIL CODE. SERVICE CONTRACTS (PEL SC). PREPARED BY MAURITS BARENDRECHT, CHRIS JANSEN, MARCO LOOS, ANDREA PINNA, RUI CASCÃO, STÉPHANIE VAN GULIJK (Sellier, Bruylant, Staempfli, Oxford Univ. Press 2006).

11. PRINCIPLES OF EUROPEAN LAW. STUDY GROUP ON A EUROPEAN CIVIL CODE. PERSONAL SECURITY (PEL PERS.SEC.). PREPARED BY ULRICH DROBNIG (Sellier, Bruylant, Staempfli, Oxford Univ. Press 2007).

12. PRINCIPLES OF EUROPEAN LAW. STUDY GROUP ON A EUROPEAN CIVIL CODE. BENEVOLENT INTERVENTION IN ANOTHER'S AFFAIRS (PEL BEN.INT.). PREPARED BY CHRISTIAN VON BAR (Sellier, Bruylant, Staempfli, Oxford Univ. Press 2006).

It follows from this that the Academic or Draft Common Frame of Reference (DCFR) will cover a rather wide range of subjects, including an amended and partly revised version of the PECL. One might ask whether this is not over-ambitious. I have to admit that I am well aware of some risks inherent in that approach. Some irritated smiles on the faces of colleagues and Commission civil servants were not meant (and were impossible) to be overlooked when we published at an early stage a lengthy text on European Principles of *Negotiorum Gestio* law, and it is equally true that such subjects as tort law and transfer of title in moveable property give rise to many more emotions and therefore to sometimes much stronger reactions than the law governing, say, the conclusion of contracts.

We believe, however, that for the following reasons our approach to the question of coverage of the Common Frame of Reference is the right one. (i) We started in the tradition of the Commission on European Contract Law with the aim of broadening its field of investigation. As said before, there were, when we started, no political discussions underway on the creation of a pan-European text on private law of whatever format, neither for contract law nor for any other part of the law. So we started out as (and have stubbornly remained) an independent and autonomous group of scholars, driven by curiosity and the hope that we might be able to add something to the knowledge of European private law. After all, what we have been preparing since our start is an *Academic* Common Frame of Reference, and the coverage of such a work needs no better justification than any other topic of research the results of which are being published. (ii) The second reason is rather formal, but nevertheless of utmost importance to us. When concluding the negotiations on our contract with the DG Research to receive funding under the 6th European Framework Programme on Research we *had* to sign an agreement under which we would deliver up texts on all subjects which I have just listed. It may well be that today not everybody within the European Commission is unreservedly happy with that agreement any longer, but that would not help us, of course, when in breach of contract with our partner, the DG Research (the contract with whom, by the way, is governed by Belgian law). We would never have received any funding (and the Commission would consequently never have been able to start the political process on the CFR) had we only applied for funding in regard to the limited range of subjects covered, for example, by the PECL: that work was more or less standing ready on the bookshelves.

A more substantial point in regard to our decision as to coverage is reason no. (iii). We are convinced that it would not be sufficient to

include only rules on general contract law in the Academic CFR. It needed to be tested whether and in what respect they had to be adjusted, amended and revised within the framework of the most important of the specific contracts. Among these are sales, distribution contracts and services, lease of movables and loans, personal security and mandate. A Common Frame of Reference for Contract Law would simply be incomplete without these subjects. At a very late stage we then also included gratuitous contracts and donations in particular. One might say, of course, that the latter's relevance for the good functioning of the Internal Market is not very high, but we came to the conclusion that for reasons of internal coherence with other parts of our draft we should deal with these areas as well. (iv) We never wanted to restrict our work to matters of consumer protection. In terms of division of labour that is the subject matter of our sister team, the Acquis-Group. In substance, we concur with the experts in that area in the view that consumer protection law is not a self-standing area of the law of obligations, i.e., of contract, tort and unjustified enrichment law. Consumer protection law consists of some deviations from the general principles of private law, but cannot be developed without them.

(v) We are convinced that the whole of the law of obligations is an organic entity or unit. Without knowing what is *not* contract law we have found it difficult to say what *is* contract law. Think for instance of the consequences of avoidance, withdrawal, termination for non-performance and price reduction in regard to money already paid or to goods delivered, respectively: contract law or unjustified enrichment law? And in what respect should the rules on both sides of the border follow the same principles, in what respect should they differ? Another, quite simple example: someone does something on behalf of another and in his interest but could not ask him beforehand. Think for instance of a repair situation: something more than the client had asked for turns out to be necessary and was done on the spot: contract or *negotiorum gestio*? Or, to give just one other example, think of the agent without authority, the *falsus procurator*: is his liability vis-à-vis the third party contractual or tortious in nature? There are virtually hundreds of questions of this sort[13], and as we had the research facilities to go into these questions in detail we decided to cover non-contractual obligations as well.[14]

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13. CHRISTIAN VON BAR & ULRICH DROBNIG, THE INTERACTION OF CONTRACT LAW AND TORT AND PROPERTY LAW IN EUROPE (Munich: Sellier European Law Publishers 2004).

14. See in more detail CHRISTIAN VON BAR, Zur gegenständlichen Reichweite des Gemeinsamen Referenzrahmens, *in* W KIERUNKU EUROPEIZACJI PRAWA PRYWATNEGO [TOWARDS

(vi) Some areas of property law in regard to moveable property are dealt with for more or less identical reasons; I think they are so obvious that I do not have to explain them in detail. (vii) What I finally have to stress, however, is this. Our research and drafting efforts in the areas outside of contract law are sometimes referred to as "essential background material". That expression causes me some personal concern because I have spent nearly ten years of my life on these matters and am not too pleased by the idea that this was on background material only. But be that as it may, the purpose of that expression is of course, once again, a "political" one. With our Draft Common Frame of Reference we want to make sure that we have not overlooked any problems of substance and coherence between contract law and its adjacent areas, and we were determined to explore the possibilities of drafting common European Principles of these matters as well.

We have, however, structured our material in a way that the political institutions, if at all they wish to proceed with an official Common Frame of Reference on the basis of some of our proposals, can sever certain parts of it and leave them to a later stage of deliberation or just the general discussion amongst academics. In other words, the Academic Common Frame of Reference will not be structured on a 'take it (all) or leave it' basis; perhaps not every detail can be cherry-picked intact, but in any event larger areas could be taken up without being forced to accept the entirety. The areas which might be removed in order to restrict the CFR to mere contract law would then be turned into "background material", I'm afraid. (viii) Many colleagues, Commission officials and stakeholders have asked us to develop a list of terminology for European private law. This we have been doing and constantly enlarging. It has helped us to achieve consistency in our own drafting. This terminology list is derived from Community legislation and our rules, and it is, I think, another major step forward. Its author is Professor *Eric Clive* from Edinburgh University. However, it is not completely a risk-free undertaking for us to publish this terminology list, because, in the worst of all possible scenarios, one might ultimately accept this list and forget about the rules from which it is drawn. We hope that the political world will accept that not only a set of definitions is helpful to draft model rules: one cannot have a reasonable terminology list without a fully drafted set of such rules.

EUROPEANIZATION OF PRIVATE LAW]: ESSAYS IN HONOUR OF JERZY RAJSKI 105-119 (Warsaw 2007).

IV. STRUCTURE

A broad coverage such as ours automatically gives rise to another question of a more general nature: How does one structure all these rules? The structure of the DCFR was discussed on many occasions by the Study Group. It was accepted from an early stage that the whole text would be divided into books and that each book would be subdivided into chapters, sections, subsections (where appropriate) and articles. In addition the book on specific contracts (Book IV) was to be divided, because of its size, into parts, each dealing with a particular type of contract (e.g., Book IV.A: Sales). All of this was relatively uncontroversial. To a large extent the allocation of the subject matter to the different books was also uncontroversial. It was readily agreed that Book I should be a short and general guide for the reader on how to use the whole text—dealing, for example, with its intended scope of application, how it should be interpreted and developed and where to find definitions of key terms.

The later books, from Book IV on, also gave rise to little difficulty so far as structure was concerned. There was discussion about the best order but eventually it was settled that the order would be Specific Contracts (Book IV); Benevolent Intervention in Another's Affairs (Book V); Non-contractual Liability Arising out of Damage Caused to Another (Book VI); Unjustified Enrichment (Book VII); Transfer of Movables (Book VIII); Proprietary Security Rights in Movable Assets (Book IX) and Trusts (Book X). An important argument for putting the specific contracts in a book of their own (subdivided into Parts) rather than in separate books is that it would be easier in the future to add new Parts dealing with other specific contracts without affecting the numbering of later books and their contents. An example of this is Insurance Contract Law which might go into the DCFR in its second edition planned for 2009.

The difficult decisions were on Books II and III. There was never much doubt that these Books should cover the general rules derived from the *acquis communautaire*[15] and the material in the existing Principles of European Contract Law—general rules on contracts and general rules on

15. They are drafted by our sister team, the Acquis Group, and fitted in to the general structure and policies of the DCFR by a joint committee of the two groups, the Compilation and Redaction Team (CRT), co-chaired by Professor *Eric Clive* (Edinburgh) and myself. Where, after discussions in both groups and in the CRT differing views cannot be consolidated (which happens only very rarely) the two groups will offer to the Commission and the general public two alternative solutions to a given problem and explain their respective advantages and disadvantages.

contractual and (often) other obligations—but there was considerable difficulty in deciding how this material should be divided between and within them and what the books should be called. It was only after decisions were taken by the Co-ordinating Committee on how the key terms "contract" and "obligation" would be used in the DCFR, and after a special Structure Group was set up, that the way forward became clear.

Book II will deal with contracts and other juridical acts (how they are formed, how they are interpreted, when they are invalid, how their content is determined and so on) and Book III will deal with obligations within the scope of the DCFR—both contractual and non-contractual—and corresponding rights. A feature of this division of material is a clear distinction between a contract seen as a type of agreement—a type of juridical act—and the legal relationship, usually involving reciprocal sets of obligations and rights, which results from it. Book II deals with contracts as juridical acts: Book III deals with the obligations and rights resulting from contracts seen as juridical acts, as well as with non-contractual obligations and rights.

A further problem was how best to deal with contractual and non-contractual obligations within Book III. One technique which was tried was to deal first with contractual obligations and then to have a separate part on non-contractual obligations. However, this proved cumbersome and unsatisfactory. It involved either a lot of unnecessary repetition or a lot of cross-references to earlier articles. Either way the text was unattractive and heavy for the reader to use. In the end it was found that the best technique was to frame the articles in Book III so far as possible in general terms so that they could apply to both contractual and non-contractual obligations. Where a particular article applied only to contractual obligations (which was the exception rather than the rule) this could be clearly stated. This approach was expressly approved, after a discussion and a vote, by a meeting of the Co-ordinating Committee at Luzern in December 2006.

V. NEXT STEPS

A text drafted by academics (and judges) remains, of course, a private text. Such a private text can become very influential, as the Principles of European Contract Law (PECL) have demonstrated. They have not only been referred to in academic writings all over the world. They have also been referred to by several European Supreme Courts (in particular in Spain, Portugal, Sweden and the UK), they have heavily influenced national legislation in the field of contract law, and they have initiated the ongoing discussion on the creation of a Common Frame of

Reference in Europe. I admit that I sometimes wonder whether our Principles of European Law, when finally shaped and turned into an Academic Common Frame of Reference, should stop there as well and simply count on the force of argument (if any) contained in them. That approach would have saved us from accusations of all sorts, and in particular from involvement in a political process where we are not accustomed to the rules and, for want of any political legitimacy, we probably will not have much to say. But things developed differently, as you all know, and we will now make as much of it as we can.

It is not for us to decide what the political CFR will contain and by what means it will be transformed into an official or quasi-official text. There are many options still to be sorted out, and I am sure that not only the Commission but also the Parliament and the Council will want a word in this. Today it seems to me that it is more probable than not that Europe will get its Common Frame of Reference. It has the support of the Council who linked it with the Lisbon strategy, which in its revised version is also focused on the improvement of the quality and consistency of EU legislation. The Council of Ministers of Justice will discuss the CFR once again later in the year; it has been dealing with it repeatedly. The Common Frame of Reference has the clear support of the Parliament, and it also has the support of important (although perhaps not all) Commission Directorate-Generals. That is more than we could hope for in the crisis we had to live through two years ago.

We, as academics, cannot do much more than bring to an end what we have started. By the end of 2007 we will therefore send a first version of our Draft Common Frame of Reference to the Commission (articles plus commentaries to Books I-VII; notes, as far as we have them, in a second file for Commission use only). A few weeks later an "outline interim edition" of the DCFR will appear in paperback. Apart from an introduction the latter will contain nothing more than the model rules in the English language, the terminology list and some general principles of contract law in Europe. All the other material—the commentaries, comparative introductions, translations of the articles into other EU languages and in particular the extensive notes which give evidence of the existing private law in the Member States—will first be published in the SGECC/PEL series and in 2009 in an all-embracing final edition of the DCFR. We will already have delivered up to the Commission a lot of comparative information by the end of this year, but we will not yet go public with it simply because it still requires much additional work before we can present it in a proper form. 2009 will also be the year when a second paperback edition of the English "rules only"

version will be published, at this stage also with the still outstanding issues of contract and property law, with amendments which have proved to be necessary, and perhaps—and with the agreement of the research team concerned, of course—with insurance contract law.

VI. AND THEN?

2009—although it will require substantial efforts to put into reality what I have just promised we will do—is no longer far away. So we must look ahead and ask ourselves: what then? We will need fresh teams, a new organisation, a renewed motivation to keep it going and to connect what has been started with other areas of the law and, in so doing, with further experts. We need, I think, to found a new organisation under whose roof we can assemble. We are working on that!