

International conference celebrating the 20th anniversary of the cooperation between
Tartu University, Estonia, and the University of Konstanz, Germany

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Ratssaal of the Rathaus Konstanz | Kanzleistraße 13 – 15

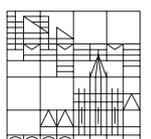
A New Approach to the Harmonization of Private Law in Europe?

Lessons from the CESL and Future Challenges

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Universität
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Conference Program

The academic Draft Common Frame of Reference published in 2009 prompted an intensive debate all over Europe. Despite the huge academic efforts and the European Commission's support a smooth harmonization of European civil law has failed and the idea of a European Civil Code cannot be expected to be realized soon. The EU Commission's top down approach received strong criticism and even the draft of a Common European Sales Law was not received enthusiastically in most Member States. As a consequence of the entire developing process and its deficiencies, in 2011, the European Law Institute was founded following the example of the American Law Institute. It is expected to provide practical guidance for future legal developments in Europe and to take a pan-European perspective. Thus, it seems to be the right point in time to back-pedal and to reconsider the historical, methodological and cultural foundations of European private law.

The 20th anniversary of the cooperation between Tartu University, Estonia, and the University of Konstanz, Germany, offers an excellent opportunity to discuss some basic questions of the harmonization process and the common roots of private law in Europe. Despite common chapters in history, Estonia and Germany, represent two different perspectives within the EU. Estonia has gained its independence not so long ago and is one of the young and small Member States. Owing to its vast experience with several legal systems it is one of those modern states which decided not to have a comprehensive Civil Code. Whereas Estonians were broad-minded to the process of harmonization, in Germany the legal tradition of a more than one hundred year old codification provoked resistance to change and the DCFR and CESL were met with wide-spread skepticism.

We have selected the following overarching issues as a source of possible inspiration for speakers and participants:

- What is the added value of civil codifications such as a European Civil Code?
- Is the gradual harmonization of national legal systems a reasonable alternative or a necessary intermediate step?
- Should national civil codes being the result of legal history and representing cultural identities be preserved? Given the wealth of diverse legal traditions, how can we establish the necessary elements for harmonization and integration?
- What methodological research is necessary to generate general acceptance of a harmonized European private law?
- Taking into consideration the various and different traditions of interpretation, how can a European Civil Code guarantee a truly European civil law?
- What are the institutional requirements, particularly with respect to a European court system, for the harmonization of private law in Europe?
- What is the time dimension for a harmonization process and what are the lessons to be learned from the history of codifications?

Speakers:

- Prof. Dr. Burkhard Hess, Luxemburg
- Prof. Dr. Nils Jansen, Münster
- Prof. Dr. Soazick Kerneis, Paris
- Prof. Dr. Irene Kull, Tartu
- Prof. Dr. Marju Luts-Sotak, Tartu
- Prof. Dr. Paul Varul, Tartu
- Prof. Dr. Pascal Pichonnaz, Fribourg

