

Book Reviews & Notices
Comptes rendus bibliographiques

Jurgen Basedow / John Birds / Malcolm Clarke / Herman Cousy / Helmut Heiss (Editors), *Principles of European Insurance Contract Law (PEICL)* – Sellier, Munich – 2009 – ISBN 978-3-86653-069-0 – pp. lxxviii + 668.

The Project Group “Restatement of European Insurance Contract Law” started its work in September 1999, under the chairmanship of Professor Fritz Reichert-Facilides, and, after his death in 2003, of Professor Helmut Heiss. The Group joined the European Network of Excellence on European Contract Law, set up by the European Commission, in 2005. In June 2009, it produced the “Principles of European Insurance Contract Law (PEICL)” as its contribution to the Common Frame of Reference of European Contract Law.

This imposing volume presents the results of this work. In addition to an Introduction by Professor Heiss, it contains the text of the Principles – Rules, Illustrations and Notes. It also reproduces the Czech, Dutch, French, German, Greek, Hungarian, Italian, Polish, Portuguese, Slovak, Spanish and Swedish translations of the Rules; tables on legislation and case law, a bibliography as well as an extensive index complete the book.

As indicated by Professor Heiss in his Introduction, the Project Group started from the premise that “the law of insurance [in Europe] must be one”. The first studies conducted by the Group demonstrated that the lack of harmonisation of the substantive legal regime governing insurance contract law at the European level was hampering the development of the internal insurance market. Basing their work also on an extensive comparative analysis of insurance contract law in Europe (published as BASEDOW / FOCK, *Europäisches Versicherungsvertragsrecht*, vols. I-III, 2002 and 2003), the Project Group prepared the Principles of European Insurance Contract Law by drafting Rules, followed by Comments setting out the reasons for the rule and giving examples of how it should be applied, and by Notes illustrating the provisions of insurance contract law in each Member State and of the relevant European Union law.

The Principles provide general rules of insurance contract law, applicable to all types of insurance except reinsurance. In order to avoid, as far as possible,

recourse to national law for the aspects not covered by the Rules, and to rule out any duplication, the Project Group conducted its work bearing in mind the need for consistency, both in respect of substantive issues and of terminology, with the Principles of European Contract Law (PECL). The edition used by the Project Group in its work was the last edition issued by the Lando Commission; as the general rules on contract of the Common Frame of Reference, which became available in full only after the PEICL had been completed, are themselves based on the PECL, the texts should be consistent with one another.

The PEICL are intended as an optional instrument, whose application would depend on a choice being made by the parties to the contract. This would be of benefit both to economic operators in the European internal market and to private parties, who would be able to rely on a single, sound and balanced regime for their transactions, consistent with the *acquis communautaire*.

The Rules are divided into three parts: Provisions common to all contracts included in the PEICL, Provisions common to indemnity insurance, and Provisions common to insurance of fixed sums. Part I includes Chapters 1 to 7 (introductory provisions; initial stage and duration of the insurance contract; insurance intermediaries; the risk insured; insurance premium; insured event; prescription); Part II comprises Chapters 8-12 (sum insured and insured value; entitlement to indemnity; rights of subrogation; insured persons other than the policyholder; insured risk); Part III consists of Chapter 13 on admissibility.

The European Union is now dealing with the future developments of the Common Frame of Reference, of which the PEICL are a part, and which is receiving serious political consideration. Although it is premature at this stage to predict the final outcome of this effort, it is safe to say that the PEICL could, if nothing else, serve as a model for future instruments. They could, of course, be chosen by the parties, in the exercise of their contractual freedom; but this would not be without exclusions and restrictions, and national law would continue to play a relevant role on insurance contracts. It is worth stressing that the Principles were drafted in such a way as to permit the European Union to enact them as an EU regulation. Their nature as an optional instrument would be maintained and they would become a "2nd regime" of insurance contract law in each Member State, as illustrated in the Introduction, at p. lxxv. This would be a more effective way of enabling the parties to choose the PEICL. Indeed, the Opinion issued by the European Economic and Social Committee ("The 28th regime – an alternative allowing less lawmaking at Community level" (CESE 1869/2009 fin), on 27 May 2010), stresses the advantages of such an approach.

The Comments and Notes will also prove of great interest to the reader, containing as they do ample and well documented examples and references to case law and legislation. All in all, this book is an impressive achievement,

drafted by the leading European experts of the field, based on an extensive and thorough comparative study and timeously completed under the guidance of Professor Heiss.

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Stephan Hobe / Bernhard Schmidt-Tedd / Kai-Uwe Schrogl (Editors), Géraldine M. Goh (Assistant Editor), Cologne Commentary on Space Law: Volume 1, Outer Space Treaty – 2009 – Carl Heymanns Verlag, Cologne – ISBN 978-3-452-27185-3, 298 pp.

As humans increase their presence in outer space, the laws that govern human activities in that environment are becoming increasingly relevant and important to both Governments and the commercial space sector. In this context, it is critical that these parties have a clear understanding of the international regimen that has emerged from within the United Nations in order to ensure the peaceful exploitation of outer space. To this end, the University of Cologne (*Köln*) has undertaken an exhaustive commentary on the international instruments that make up international outer space law, bringing together some of the premier minds in this field for the purpose of producing a single body of work that provides both insight and inspiration for the future. This work, organised by the esteemed Professors Dr S. Hobe, Dr B. Schmidt-Tedd and Dr Kai-Uwe Schrogl, will be published in three volumes, the first being devoted entirely to the text of the *United Nations Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies* (hereinafter referred to as the Outer Space Treaty). Two further volumes will deal with the four subsequent United Nations treaties governing activities in outer space and the United Nations Principles on outer space activities.

As mentioned above, the first volume of the Cologne Commentary on Space Law (hereinafter referred to as the Commentary) focuses entirely on the Outer Space Treaty, the underlying instrument which sets out the most fundamental policies adopted by the international community to govern human activities in outer space and, moreover, the basis upon which all other instruments have been developed. Particular attention must be paid to this Treaty since it has become, although not conclusively, so widely accepted by States that it has taken on the form of customary law. This Commentary, therefore, provides an in-depth article-by-article analysis of the Outer Space Treaty, looking into the history, interpretation and application of each and every provision therein. But while commentaries on the Outer Space Treaty have been published before, this Commentary is particularly helpful because of, first, the calibre of the contributors that have provided their insight on the origins of the Treaty,