

## *Editorial*

### **On Old or New Rules for New Problems or Old Problems**

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Comparative law has lost a master mind: Rodolfo Sacco, without any doubt one of the most original legal thinkers of the last 75 years. He was a member of our Advisory Board from the beginning and has more generally had a huge influence on the intellectual development of several editors of our journal. Barbara Pozzo was a one of his pupils evidently the right person to sketch his life, career and legacy, and we open the issue with her *in memoriam*.

Several articles in this issue deal with the use of classical contract law for more or less new problems or practices, most clearly the article by Evripides Rizos on the treatment of bugs in smart contracts. He shows how the issues raised by the new phenomenon of smart contracts can largely be solved by classical contract law doctrines such as those dealing with interpretation, breach or restitution and why code cannot have the last word in law. Next, Thibaut Verhofstede contributes with a detailed study of case law in three countries on letters of intent, identifying the factors that in fact determine the legal effects judges give to such declarations, and thus specify the basic rules on the conditions for a binding promise. Alba Fondrieschi analyses how similar general rules of contract law – on force majeure and hardship – have been used and developed in rather different ways in Italy and Japan in dealing with the covid-19 crisis. Ingeborg Schwenzer and Patrick Wittum argue how the rules of CISG – 1980: maybe not very old compared to the codes and doctrines just mentioned, but all the same quite old in the context of international trade – are still an excellent standard for the modernization of sales law; one of their arguments concerns precisely the matter of hardship, where they explain why the approach of the CISG which does not distinguish between impediments and hardship is preferable.

Tycho de Graaf and Gitte Veldt on the other hand deal with problems where the European legislator tries to formulate entirely new rules for a new problem, but the proposed rules do not seem entirely appropriate: the draft Regulation on product safety for artificial intelligence (AI) receives a detailed quite critical analysis.

We also deal with new rules for old problems, the first contribution out of two by Qiang Wang on the General part of the new Chinese Civil Code, analysed in comparison with the German BGB. And finally, we also welcome studies on topics that are maybe neither new nor sexy but where rules nevertheless have a large impact on countless transactions, in this case an analysis of personal subrogation by Ekin Korkmaz.

Enjoy reading!

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*co-editor in chief*