

## *Editorial*

### **Private Law in the Light of New Deals for Consumers and New Modes of Governance**

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Although the last issue of 2019 was a special issue devoted to the reform of consumer law, we received so many other contributions in consumer law that we could not avoid publishing a selection of them in this issue and thus devoting most of its pages to consumer law again. At least some of the developments discussed in them do, however, transcend consumer law and will have an impact on contract law in general. This is especially the case with the new Directives on sale of consumer goods and on contracts for digital content. On the one hand, sales law has historically, always been the cradle for general contract law; harmonization of general contract law was always building upon a harmonized sales law. On the other hand, as to contracts for digital content, the novelty of some of its aspects created the possibility to formulate rules that are less path dependent. Although, the degree of full harmonization by these directives should not be overestimated, there are thus nevertheless several good reasons to devote sufficient space to a relatively detailed analysis of them, which we do in publishing two contributions, one by Dirk Staudenmayer and the other by Jozefien Vanherpe. We are also happy to publish a thorough study of the pivotal concept of the ‘average consumer’ by Hanna Schebesta and Kai Purnhagen, concluding that the concept of average consumer functions to some extent differently in relation to unfair commercial practices *c.g.* other rules of consumer law. Marco Loos gives a follow-up on the modernization directive, testing to what extent the final text delivers on the promises of the EU Commission on a New Deal for consumers; he comes to a rather positive conclusion and at the same time longs for a further modernization.

The second main theme in this issue is the relationship between the modes of governance and the development of private law. There is first a contribution by Ivan Sammut as to how different modes of governance in the European Union can play a role in the harmonization of private law, and which role they can play in relation to specific fields of private law. Ole Hansen, Clement Petersen & Vibe Ulfbeck then analyse the role of different modes of ‘private governance’ (as to rulemaking, implementation and dispute resolution) and how they challenge the existing doctrines of private law, even if the implications are quite different in the market driven private governance (supply chains) *c.g.* state driven private governance (universal services).

We do not neglect, however, the rest of private law; this time, attention is given to ‘chances as legally protected assets’ in a comparative study of mainly tort law of France, Belgium, the Netherlands and England and Wales by five authors

from the Grotius-Pothier research group (W.Th. Nuninga, D.J. Verheij, C. Kahn, F. Auvray & C. Borucki). Charlotte Willemot on the other hand compares contemporary regimes of apartment ownership on the occasion of its reform in Belgium. And as usual, we have some important private law books reviewed on our review section.

Enjoy reading and keep safe!

*Matthias E. Storme*  
*Co-editor in chief*