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Legal Pluralism Common Law – Civil Law A Common Law for

Europe L'obligation de renvoi préjudiciel à la Cour de justice

La famille dans l'ordre juridique de l'Union européenne / Family within the Legal Order of the European Union

2020-12-31

le droit de la famille dans sa dimension civiliste fortement ancré dans les cultures nationales des États membres est une matière qui ne relève pas en principe du droit de l'union européenne pourtant il n'est plus possible d'affirmer que la matière échappe dans son entier au droit de l'union de nombreux aspects de la famille sont sous influence européenne au point que l'on voit se dessiner les contours d'une famille européenne l'ouvrage propose de mettre en lumière l'acquis européen en matière de droit de la famille au prisme du droit matériel citoyenneté européenne politique sociale de l'union fonction publique européenne comme du droit international privé le droit de la famille de l'union s'identifie alors comme un droit spécial complétant la diversité

des droits nationaux de la famille sa signification théorique et politique dans l'union est débattue par les auteurs autant que son devenir loin de demeurer fragmentaire à côté des droits nationaux des États membres il a probablement vocation à se densifier pour offrir aux citoyens et résidents européens un droit commun de la famille au sein de l'union family law with its civil law tradition and strong roots in the national cultures of the member states does not normally fall within the scope of european law however it is no longer possible to argue that family law is outside european law entirely there are many aspects of the family which are subject to european influence to the point that the outlines of a european family are starting to emerge this book is intended to highlight the european experience of family law and its substantive i e european citizenship eu social policy eu civil service and private international law aspects union law therefore contains a form of special family law which is shared between the member states and supplements their national family laws its theoretical and political importance in the union as well as its

future are discussed by the authors far from remaining fragmented alongside the national laws of member states it will likely develop to offer european citizens and residents a common family law within the eu

Legal Recognition of Non-Conjugal Families

2021-02-25

this book argues that insufficient recognition of new families is a legal problem that needs fixing in light of recent evolutions in family patterns and normative conceptions of family people increasingly invest in relationships falling outside the model of the marital family such as non conjugal unions of friends or relatives polyamorous relationships and various religious based families despite this western jurisdictions retain the marital family as the relevant basis for allocating family law benefits rights and obligations part i of the book illustrates recent evolutions in family patterns and

norms and explores how law can accommodate multiple family grids without legal recognition involving normalisation part ii focuses on courtroom litigation on the basis that courts nowadays are central avenues of social change it takes non conjugal families as a case study and provides an analysis of the most compelling argumentative strategies that non conjugal families can mobilise to pursue legal recognition in canada and the united states and within the systems of the european convention of human rights and the european union through its comparative interdisciplinary and critical legal method the book provides scholars activists and policymakers with conceptual tools to tackle the current invisibility of new families further by advancing legal arguments to enhance the protection of non conjugal families in courtrooms the book illuminates the different approaches jurisdictions are likely to take and the hindrances thereof to overcome and debunk stereotypes associated with proper familyhood

Legal Translation Outsourced

2019-01-18

as a result of globalization cross border transactions and litigation and multilingual legislation outsourcing legal translation has become common practice unfortunately over reliance on such outsourcing has given rise to significant dangers including information asymmetry goal divergence and risk legal translation outsourced provides the only current reference on commercial legal translation performed outside institutions juliette scott casts a critical eye on the practice as it now stands offering an analysis of key risks and constraints her work is informed by empirical data of the legal translation outsourcing markets of 41 countries scott proposes original theoretical models aimed both at training legal translators and informing all stakeholders including principals and agents these include models of legal translation performance a classification of constraints on legal translation applying upstream during and downstream of translation work and a

description of the complex chain of supply working to improve the enterprise itself scott shows how implementing a comprehensive legal translation brief a sorely needed template can significantly benefit clients by increasing the fitness of translated texts further she opens a number of avenues for future research with an eye to translator empowerment and professionalization

Annual Legal Bibliography

1981

in force in 70 countries around the world and covering more than two thirds of world trade the 1980 united nations convention on contracts for the international sale of goods cisg is considered to be the most successful convention promoting international trade according to many commentators this success is due among others to the fact that the convention does not directly impact on the domestic law of the various legal systems as it applies only to

international as opposed to purely domestic contracts the convention in other words does not impose changes in the domestic law which makes it easier for states to adopt the convention this does not mean however that the convention does not have any impact on the domestic law at all this book analyzes through 24 country reports as well as a general report submitted to the 1st intermediate congress of the international academy of comparative law held in november 2008 in mexico city to what extent the convention de facto influences domestic legal systems in particular the book examines the convention s impact on the practice of law the style of court decisions as well as the domestic legislation in the area of contract law

The CISG and its Impact on National Legal Systems

2009-04-27

more than a source of income and a means of protection for

creators rightholders and the creative and entertainment industries copyright is also a vehicle for technological advances and economic development in the european union industries with intensive emphasis on intellectual property rights mainly copyright generate more than a quarter of employment and more than a third of economic activity yet copyright continues to be plagued by problematic attempts to balance the interests of rightholders the public consumers intermediaries collecting societies different national legal traditions and other forces european and global this book draws a comprehensive picture of current pending and proposed copyright developments legislation communications white papers and court decisions at the levels of the european union and the world intellectual property organization twenty two well known and prestigious experts on intellectual property law from seventeen jurisdictions worldwide contribute essays on particular trends in copyright including discussions of the following and more making content available in an eu digital single market collective

management and multi territorial licensing exceptions for libraries and archives education and research traditional knowledge and cultural expressions unjustified geoblocking illegal content on the internet text and data mining copyright enforcement online and role of the european court of justice policy recommendations are also set forth as well as a detailed conceptual framework for a potential eu copyright code as a detailed and thoughtful overview of current trends in copyright internationally this book has no peers it is sure to be welcomed by practitioners policymakers academics researchers and business leaders for whom intellectual property rights and especially copyright are of the first importance

New Developments in EU and International Copyright Law

2016-02-23

to better appreciate present day private international law and

its future prospects and challenges we should consider the history and historiography of the field this book offers an original approach to the study of conflict of laws and legal history that exposes doctrinal lawyers to historical context and legal historians to the intricacies of legal doctrine the analysis is based on an in depth examination of medieval and early modern conflict of laws focusing on the classic texts of bartolus and huber combining theoretical insights textual analysis and historical perspectives the author presents the preclassical conflict of laws as a rich world of doctrines and policies theory and practice context and continuity this book challenges preconceptions and serves as an advanced introduction which illustrates the relevance of history in commanding private international law while aspiring to make private international law relevant for history

Preclassical Conflict of Laws

2021-07-22

this study explores the reasons behind the different responses of the legal systems of europe japan and the usa in coping with bse one of the major food safety crises in recent years making reference to the most recent advances on risk perception that cognitive and social sciences such as legal anthropology and sociology of law have experimented with risk perception culture and legal change examines the role that culture plays in moulding the process of legal change attention is focused on the regulative frameworks implemented to guarantee the safety of the food chain against the bse menace and on the liability responses sketched to compensate the victims of mad cow disease showing how both these elements have been influenced by the cultural context within which they are situated

Risk Perception, Culture, and Legal Change

2016-03-23

the presentation of the historical development and the scientific elaboration of the international law regulating non navigational uses of international watercourses exemplifies the richness of this branch of international law the role of general international law in this field of international relations the acceptance thereof by the international community its legal nature functions contents and codification are all examined finally an outline of the institutions of international cooperation is given

The Law of Non-Navigational Uses of International Watercourses

2023-11-27

a treatise of legal philosophy and general jurisprudence is the first ever multivolume treatment of the issues in legal philosophy and general jurisprudence from both a theoretical and a historical perspective the work is aimed at jurists as well as legal and practical philosophers edited by the

renowned theorist enrico pattaro and his team this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal scholar at all levels the work is divided in two parts the theoretical part published in 2005 consisting of five volumes covers the main topics of the contemporary debate the historical part consisting of six volumes volumes 6 8 published in 2007 volumes 9 and 10 published in 2009 volume 11 published in 2011 and volume 12 forthcoming in 2016 accounts for the development of legal thought from ancient greek times through the twentieth century volume 12 legal philosophy in the twentieth century the civil law world volume 12 of a treatise of legal philosophy and general jurisprudence titled legal philosophy in the twentieth century the civil law world functions as a complement to gerald postema s volume 11 titled legal philosophy in the twentieth century the common law world and it offers the first comprehensive account of the complex development that legal philosophy has undergone in continental europe and

latin america since 1900 in this volume leading international scholars from the different language areas making up the civil law world give an account of the way legal philosophy has evolved in these areas in the 20th century the outcome being an overall mosaic of civil law legal philosophy in this arc of time further specialists in the field describe the development that legal philosophy has undergone in the 20th century by focusing on three of its main subjects namely legal positivism natural law theory and the theory of legal reasoning and discussing the different conceptions that have been put forward under these labels the layout of the volume is meant to frame historical analysis with a view to the contemporary theoretical debate thus completing the treatise in keeping with its overall methodological aim namely that of combining history and theory as a necessary means by which to provide a comprehensive account of jurisprudential thinking

A Treatise of Legal Philosophy and General Jurisprudence

2016-07-13

the book provides the reader with a unique source regarding the current theoretical landscape in legal ontology engineering as well as on foreseeable future trends for the definition of conceptual structures to enhance the automatic processing and retrieval of legal information in the semantic framework it will thus interest researchers in the domains of the sw legal informatics artificial intelligence and law legal theory and legal philosophy as well as developers of e government applications based on the intelligent management of legal or public information to provide both back office and front office support

Approaches to Legal Ontologies

2010-12-25

this book is the result of a 4 year research project conducted at the faculty of law of the university of luxembourg it explores the legal value and enforceability of tax circulars and tax rulings in luxembourg domestic law in light of the principle of legitimate expectations and related principles after studying the historical roots of both interpretative acts this research questions the level of protection taxpayers enjoy when relying on circulars and tax rulings and contains a review of decades of administrative case law to assess the judicial discourse on taxpayers rights to certainty this book further investigates the case of circulars and tax rulings that contain interpretations of tax laws that are contrary to the law contra legem and builds upon the existing normative framework to introduce proposals addressing issues of uncertainty and inequality taxpayers are likely to suffer when relying on such interpretative acts

pierre pescatore de la faculté de droit de luxembourg École

doctorale de droit

Legitimate expectations in Luxembourg tax law

2019-06-25

the book offers contributions to a philosophical and realistic approach to the place of adjudication in contemporary constitutional democracies bringing together scholars from different legal and philosophical backgrounds the book purports to cast light on the roles of judges and the function of judicial interpretation inside of constitutional states from the standpoint of legal realism as a revisited and sophisticated jurisprudential outlook in so doing the book also copes with a few major jurisprudential issues like e.g. determining the ideas that make up the core of legal realism exploring the relation between legal realism and legal positivism identifying the boundaries of judicial interpretation as they appear from a realist standpoint as well as considering some skeptical

outlooks on the very claims of contemporary legal realism

Judges and Adjudication in Constitutional Democracies: A View from Legal Realism

2020-12-11

le droit naturel est envisagé dans son historicité et dans sa propre dialectique il peut se révéler comme un outil de méthodologie juridique pour la recherche de ce qui est juste non seulement dans l'ordre naturel des choses mais aussi dans la réalité sociale c'est pourquoi paulo ferreira da cunha est loin de soutenir un jusnaturalisme idéaliste et universel à travers des récits juridiques et des narrations poétiques sur le juste da cunha inaugure une propédeutique juridique qui lui est propre ainsi ce livre n'est véritablement ni un traité de droit ni un essai juridique c'est un manuel de paideia moderne qui vise à faire aimer la justice tant comme vertu individuelle que comme morale sociale paulo ferreira da cunha 1959 professeur catedrático titulaire et directeur de l'

institut juridique interdisciplinaire a la faculte de droit de l universite de porto a obtenu deux doctorats en droit a l universite de paris ii et a l universite de coimbra et il est agrege de droit public il est professeur associe a l universite laurentienne au canada professeur honoraire de l universite mackenzie et professeur invite de l universite de sao paulo parmi d autres il est membre correspondant de l academie europeenne de theorie du droit a bruxelles et de l academie de lettres juridiques de sao paulo parmi d autres societes scientifiques il a publie plus de 80 livres et 500 articles en 12 langues et il est le directeur de revues internationales comme les international studies on law and education en 2007 il a remporte le prix jabuti pour le meilleur livre de droit avec son livre direito constitucional geral droit constitutionnel general un des ouvrages qui inspire son traite de droit constitutionnel publie chez buenos books international

Droit naturel et méthodologie juridique

2011-12

this book charts the evolution of eu law both internal market and institutional law through the jurisprudence of one of its leading jurists few have as close an eye witness view of the evolution of european union law as judges at the ecj they not only observe however but actively work towards its development this collection assesses the momentous contribution to european union law made by josé luís da cruz vilaça taking those areas of law which were directly shaped by his judgments institutional law internal market free movement of persons and judicial review leading scholars assess his legacy through this prism the story of eu law can be charted

Building the European Union

2021-09-23

in this provocative book Calixto Salomão Filho builds a strong case for why economic power cannot be considered a mere market phenomenon taking the forgotten realities and effects of these power structures into account his comprehensive legal analysis persuasively argues the need for a new theory of economic power the book begins with a discussion of the insufficiency of antitrust concepts and instruments the author provides an economic history of monopolistic colonial systems and its effect on the development process and offers an alternate paradigm of legal structuralism and social organization he goes on to explore the creation of economic power structures with a cogent discussion of market power legal structures and the dominance of common pool resources an examination of the dynamics and behavior of power structures follows with particular attention paid to exclusion and collusion legal monopolies and the exploitation of natural resources the author shows clearly how the negative effects of economic power structures directly impact the social and economic development of societies this new

legal theory with its basis in the realities of economic structures will prove a powerful alternative to the traditional market rationality paradigm as such it will be of great interest to students and scholars of law and economics development and antitrust

A Legal Theory of Economic Power

2011-01-01

the international legal system has weathered sweeping changes over the last decade as new participants have emerged international law making and law enforcement processes have become increasingly multi layered with unprecedented numbers of non state actors including individuals insurgents multinational corporations and even terrorist groups being involved this growth in the importance of non state actors at the law making and law enforcement levels has generated a lot of new scholarly studies on the topic however while it remains uncontested that non state

actors are now playing an important role on the international plane albeit in very different ways international legal scholarship has remained riddled by controversy regarding the status of these new actors in international law this collection features contributions by renowned scholars each of whom focuses on a particular theory or tradition of international law a region an institutional regime or a particular subject matter and considers how that perspective impacts on our understanding of the role and status of non state actors the book takes a critical approach as it seeks to gauge the extent to which each conception and understanding of international law is instrumental in the perception of non state actors in doing so the volume provides a wide panorama of all the contemporary legal issues arising in connection with the growing role of non state actors in international law making and international law enforcement processes

Participants in the International Legal System

2011-04-20

the book provides an overview of how international law is today constructed through diverse macro and microprocesses that expand its traditional subjects and sources with the attribution of sovereign capacity and power to the international plane moving the international toward the national simultaneously national laws approximate laws of other nations moving among nations or moving the national toward the international and new sources of legal norms emerge independent of states and international organisations this expansion occurs in many subject areas with specific structures commercial environmental human rights humanitarian financial criminal and labor law contribute to the formation of post national law with different modes of functioning different actors and different sources of law that

should be understood as a new complexity of law

Internationalization of Law

2014-06-17

common european legal thinking emanates from the existence of a shared european legal culture as especially reflected in the existence of a common european constitutional law it denotes a body of individual constitutional principles written and unwritten that represent the common heritage of the constitutions of the member states taking into account the two major european organisations the council of europe and especially the european union the essays of this festschrift discuss a range of constitutional principles including the rule of law democracy and the exercise of political power in a multilevel system which recognises fundamental rights as directly applicable and supreme law other essays examine the value of pluralism the commitment of private organisations to uphold public values principles or

rules and the objectives and methods of a transnational science of administrative law these articles highlight the fact that the *ius publicum europaeum commune* is politically in the making which can often be seen in the shape of general legal principles the publication recognises the role of albrecht weber as a forerunner of common european legal thinking

Common European Legal Thinking

2015-09-24

the human genome is a well known symbol of scientific and technological progress in the twenty first century however concerns about the exacerbation of inequalities between the rich and the poor the developing and the developed states the healthy and the unhealthy are causing problems for the progress of scientific research the international community is moving towards a human rights approach in addressing these concerns such an approach will be piecemeal and ineffective so long as fundamental issues about economic social and

cultural rights the so called second generation of human rights are not addressed this book argues that in order to be able to meaningfully apply a human rights framework to the governance of the human genome the international human rights framework should be based on a unified theory of human rights where the distinction between positive and negative rights is set aside the book constructs a common heritage concept with the right to development at its core and explores the content of the right to development through rational human rights theory it is argued that the notion of property rights in the human genome should be placed within the context of protecting human rights including the right to development the concept of common heritage of humanity contrary to the widely held belief that it is in opposition to patenting of gene sequences supports human rights based conceptions of property rights this book fills a gap in the literature on international legal governance of the human genome will provide an essential reference point for research into the right to development development issues in bioethics

the role of international institutions in law making and research governance

The International Legal Governance of the Human Genome

2009-06-09

far from regarding the law as supreme corporations approach law as an element of executive thought and action aimed at optimizing competitiveness the objective of this book is to identify explore and define corporate legal strategies that seek advantage in the opportunities revealed when the law is perceived as a resource to be mobilized and aligned with the firm s business and economic agendas

Legal Strategies

2009-12-12

this book examines different legal systems and analyses how

the judge in each of them performs a meaningful review of the proportional use of discretionary powers by public bodies although the proportionality test is not equally deep rooted in the literature and case law of france germany the netherlands and the united kingdom this principle has assumed an increasing importance partly due to the influence of the european court of justice and european court of human rights in the united states different standards of judicial review are applied to review arbitrary and capricious agency discretion however do us judges achieve a similar result to the proportionality or reasonableness test drawing together a selection of key experts in the field this book analyses the principle of proportionality in the judicial review of administrative decisions from different perspectives the principle is first examined in the context of recent developments in the literature and case law including the inevitable eu influence then light shall be shed on the meaning of this principle in the specific case law of the european court of justice and european court of human rights

finally the authors go on to explore the ways in which us judges consciously sanction the disproportionate and or unreasonable use of agency discretion in the legal systems where the proportionality test plays a very limited role ranchordás and de waard also try to clarify why this is the case and look at what alternative solutions have been found this book will be of great interest to scholars of public and administrative law and eu law

Index to Foreign Legal Periodicals

1984

the first ever multivolume treatment of the issues in legal philosophy and general jurisprudence from both a theoretical and a historical perspective the work is aimed at jurists as well as legal and practical philosophers edited by the renowned theorist enrico pattaro and his team this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal

scholar at all levels the work is divided the theoretical part published in 2005 consisting of five volumes covers the main topics of the contemporary debate the historical part consisting of six volumes volumes 6 8 published in 2007 volumes 9 and 10 published in 2009 volume 11 published in 2011 and volume 12 forthcoming in 2015 accounts for the development of legal thought from ancient greek times through the twentieth century the entire set will be completed with an index volume 7 the jurists philosophy of law from rome to the seventeenth century edited by andrea padovani and peter stein volume 7 is the second of the historical volumes and acts as a complement to the previous volume 6 discussing from the jurists perspective what that previous volume discusses from the philosophers perspective the subjects of analysis are first the roman jurists conception of law second the metaphysical and logical presuppositions of late medieval legal science and lastly the connection between legal and political thought up to the 17th century the discussion shows how legal science proceeds at every step

of the way from rome to early modern times as an enterprise that cannot be untangled from other forms of thought thus giving rise to an interest in logic medieval theology philosophy and politics all areas where legal science has had an influence volume 8 a history of the philosophy of law in the common law world 1600 1900 by michael lobban volume 8 the third of the historical volumes offers a history of legal philosophy in common law countries from the 17th to the 19th century its main focus like that of volume 9 is on the ways in which jurists and legal philosophers thought about law and legal reasoning the volume begins with a discussion of the common law mind as it evolved in late medieval and early modern england it goes on to examine the different jurisprudential traditions which developed in england and the united states showing that while coke s vision of the common law continued to exert a strong influence on american jurists in england a more positivist approach took root which found its fullest articulation in the work of bentham and austin

The Judge and the Proportionate Use of Discretion

2015-06-12

this work the outgrowth of a joint reflection by french and german international lawyers attempts to reconceptualize the doctrine of hierarchy in international law by emphasizing that a clear distinction should be drawn between primary rules which encapsulate precepts for the protection of the basic values of the international community and secondary rules which determine the regime of legal consequences flowing from a breach of such rules of conduct

A Treatise of Legal Philosophy and General Jurisprudence

2016-02-12

this collection provides an innovative and engaging way of

assessing the development of legal profession scholarship and its potential future development by presenting an analysis of the leading works of the discipline the book was written by prominent and emerging international scholars in the field with each contributor having been invited to select and analyse a work which has for them shed light on what the legal profession is and what it does the chapters explore the effect that the chosen work has had upon legal profession scholarship as a whole both within particular jurisdictions and internationally contributors also reflect upon the likely implications of the leading work on the future study of and application to the legal profession they relate the works to recent and contemporary developments in law and access to justice such as the rise of technology impact of the covid 19 pandemic and issues of funding to highlight the interpretative value of such scholarship presenting an overview and introduction to the field of legal profession research the collection will be required reading for researchers looking to study any aspect of the legal profession it will also prove

compelling for a wide variety of access to justice and justice system research projects the book will also appeal to scholars interested in legal ethics

The Fundamental Rules of the International Legal Order

2006

this landmark publication offers a unique comparative and interdisciplinary study of criminal insanity and neuroscience criminal law theories and ideologies which underpin the regulation of criminal insanity have always been the subject of controversy the history of criminal insanity is characterised by conceptual and empirical tension between two disciplinary realms the law and the mind sciences the authors in this anthology explore in depth the state of the art of legal insanity and the numerous intricate fascinating pioneering and sophisticated questions raised by the integration of different criminal law and behaviour theories diverse

disciplines and methodologies in a genuinely interdisciplinary perspective this volume will serve as a practical guide for the comparative legal scholar and the judge as well as stimulating scholarly reading for the neuroscientist the social scientist and the philosopher with interdisciplinary scientific interests

Leading Works on the Legal Profession

2023-07-28

derived from the renowned multi volume international encyclopaedia of laws this book provides ready access to legislation and practice concerning the environment in cyprus a general introduction covers geographic considerations political social and cultural aspects of environmental study the sources and principles of environmental law environmental legislation and the role of public authorities the main body of the book deals first with laws aimed directly at protecting the environment from pollution in specific areas such as air water

waste soil noise and radiation then a section on nature and conservation management covers protection of natural and cultural resources such as monuments landscapes parks and reserves wildlife agriculture forests fish subsoil and minerals further treatment includes the application of zoning and land use planning rules on liability and administrative and judicial remedies to environmental issues there is also an analysis of the impact of international and regional legislation and treaties on environmental regulation its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable resource for environmental lawyers handling cases affecting cyprus academics and researchers as well as business investors and the various international organizations in the field will welcome this very useful guide and will appreciate its value in the study of comparative environmental law and policy

Legal Insanity and the Brain

2016-10-20

this volume is the first of a four volume bilingual and bisystemic legal publication entirely dedicated to property law this is a two tome dictionary the first tome lists articles by alphabetical order in french the second tome by alphabetical order in english page xiii

Environmental Law in Cyprus

2023-01-20

the international community s practice of administering territories in post conflict environments has raised important legal questions using kosovo as a case study bernhard knoll analyses the identity of the administering un organ the ways in which the territories under consideration have acquired partial subjectivity in international law and the nature of legal obligations in the fiduciary exercise of transitional

administration developed within the league of nations
mandate and the un trusteeship systems knoll discusses
kosovo s internal political and constitutional order and notes
the absence of some of the characteristics normally found in
liberal democracies before proposing that the un consolidates
accountability guidelines related to the protection of human
rights and the development of democratic standards should it
engage in the transitional administration of territory

Le système interaméricain comme régime régional de protection internationale des droits de l'homme

1976-12-01

this comprehensive research handbook explores the wide
variety of work conducted in legal semiotics to provide a
broad understanding of how the law works through signs and
symbols demonstrating that law is a strategical system of

fluctuating signs contributors critically analyse the ever evolving conceptualisations of law and legal discourse

Dictionnaire juridique de la propriété au **Canada : français-anglais, droit civil-** **Common law**

2009

this book offers a comprehensive introduction to french contract law with a focus on the role of consent and the evolution of consensualism considering its immediate historical sources the book provides a clear in depth and analytical discussion of the contingency of consensualism and how the development of consensual ideas across time and transnational geographical settings has specifically underpinned modern french contract law which has inspired other legal systems and continues to do so it also challenges the macro narratives of european legal history and redefines

consensualism so that it may be properly understood
addressing its manifest contemporary misinterpretations
thorough engaging well structured and inventive there is no
other english language scholarly work that offers a similar
analysis this monograph makes an evident contribution to the
field by offering an original interpretation of several provisions
in the code civil which relate to the law of contract the author
demonstrates an impressive grasp of latin french and english
sources as well as knowledge of roman law legal history and
contemporary french law it is well referenced and offers an
extensive bibliography dr stephen bogle senior lecturer in
private law university of glasgow uk the author brings a
critical perspective to bear throughout the monograph and
develops a clear and quite sophisticated position on the
interaction between consensualism and formalism in roman
and french law and the intervening european ius commune
prof hector macqueen emeritus professor of private law
university of edinburgh uk

The Legal Status of Territories Subject to Administration by International Organisations

2008-06-12

these guidelines help developing countries enhance their capacity to trade and participate more effectively in the international rule making and institutional mechanisms that shape the global trading system they also provide a common reference point for the trade aid and finance communities

Research Handbook on Legal Semiotics

2023-11-03

this book grew out of a major european union eu funded project on the hague maintenance convention of 2007 and on the eu maintenance regulation of 2009 the project involved carrying out analytical research on the implementation into

national law of the eu regulation and empirical research on the first year of its operation in practice the project also engaged international experts in a major conference on recovery of maintenance in the eu and worldwide in heidelberg in march 2013 the contributions in this book are the revised refereed and edited versions of the best papers that were given at the conference the book is divided into four parts i comparative context ii international looking at national and non european regional practice and how the hague convention could change things iii international and the eu looking at issues covered by both the hague convention and the eu regulation and iv the eu looking at the maintenance regulation this is the first study to look carefully at both of the new cross border maintenance regimes globally and in europe and to begin the examination of the practical operation of the latter regime the approval of the hague convention by the eu on 9 april 2014 is a major step forward for its practical significance in enabling the recovery of child and spousal support as from 1 august 2014 all of the 28 eu

member states apart from denmark will be bound by the convention

The Construction, Sources, and Implications of Consensualism in Contract

2023-09-28

this open access book presents an interdisciplinary multi authored edited collection of chapters on artificial intelligence ai and the law ai technology has come to play a central role in the modern data economy through a combination of increased computing power the growing availability of data and the advancement of algorithms ai has now become an umbrella term for some of the most transformational technological breakthroughs of this age the importance of ai stems from both the opportunities that it offers and the challenges that it entails while ai applications hold the

promise of economic growth and efficiency gains they also create significant risks and uncertainty the potential and perils of ai have thus come to dominate modern discussions of technology and ethics and although ai was initially allowed to largely develop without guidelines or rules few would deny that the law is set to play a fundamental role in shaping the future of ai as the debate over ai is far from over the need for rigorous analysis has never been greater this book thus brings together contributors from different fields and backgrounds to explore how the law might provide answers to some of the most pressing questions raised by ai an outcome of the católica research centre for the future of law and its interdisciplinary working group on law and artificial intelligence it includes contributions by leading scholars in the fields of technology ethics and the law

The DAC Guidelines Strengthening Trade

Capacity for Development

2001-10-29

by focusing on the role of community courts in mozambique this book offers a postcolonial perspective on legal pluralism in mozambique judicial courts are distant and expensive and legal terminology is incomprehensible to the majority of people as such mozambicans continue to rely on different normative systems to resolve their disputes systems that have always been considered to be closer cheaper and faster than judicial courts this book analyses the functioning of community courts in the mozambican capital city of maputo as it considers how the past shapes the relationship of the state with community courts the book uncovers the eurocentrism of mainstream discourses and practices of criminal justice in response it develops a postcolonial account of legal pluralism by arguing that community courts can therefore be seen as the form of an otherwise neglected local knowledge the book discusses their overlooked importance in

improving widespread access to criminal justice this book will be of value to scholars working in the areas of legal pluralism and postcolonialism and others with interest in criminal justice

The Recovery of Maintenance in the EU and Worldwide

2014-12-01

this book offers an in depth analysis of the differences between common law and civil law systems from various theoretical perspectives written by a global network of experts it explores the topic against the background of a variety of legal traditions common law and civil law are typically presented as antagonistic players on a field claimed by diverse legal systems the former being based on precedent set by judges in deciding cases before them the latter being founded on a set of rules intended to govern the decisions of those applying them perceived in this manner common law and civil law differ in terms of the main source s of law who is

to create them who is merely to draw from them and whether the law itself is pure each step of the way or whether the law's purity may be tarnished when confronted with a set of contingent facts these differences have deep roots in legal history roots that allow us to trace them back to distinct traditions nevertheless it is questionable whether the divide thus depicted is as great as it may seem international and supranational legal systems unconcerned by national peculiarities appear to level the playing field a normative understanding of constitutions seems to grant ever greater authority to high court decisions based on thinly worded maxims in countries that adhere to the civil law tradition the challenges contemporary regulation faces call for ever more detailed statutes governing the decisions of judges in the common law tradition these and similar observations demand a structural reassessment of the role of judges the power of precedent the limits of legislation and other features often thought to be so different in common and civil law systems the book addresses this reassessment

Multidisciplinary Perspectives on Artificial Intelligence and the Law

2023-12-26

an essential guide for lawmakers scholars and students of law this work takes on the formidable task of providing a detailed overview of the harmonization of law in the european union skillfully researched the authors seek to approach this topic with an eye to the recent enlargement process in highlighting the most recent actions of the european court of justice and the court of first instance the book seeks to analyze the future strengths and pitfalls of eu common law court rulings are quoted at length and work in conjunction with text inserts in providing a format that breaks down complex information this open style of the book gives researchers the ability to quickly locate useful information and cite statements from eu institutions in outlining the sources and institutions of community law and the challenges in

harmonizing national and supra national law books a common law for europe has done a tremendous service for academics and future leaders of the european union

Community Courts and Postcolonial Legal Pluralism

2024-04-02

amorcé par l'arrêt Köbler un mouvement jurisprudentiel récent a conduit la cour de justice à concevoir divers mécanismes qui permettent aux justiciables de sanctionner directement ou indirectement une juridiction nationale qui a méconnu son obligation de renvoi préjudiciel c'est ainsi que les justiciables pourront solliciter la remise en cause de la chose décidée voire de la chose jugée ou encore chercher à engager la responsabilité judiciaire de l'État on pressent pourtant que les solutions très restrictives forgées par la cour de justice sont supplantées par les dispositifs nationaux ceux-ci paraissent en effet plus aisés à actionner voire plus performants qu'il s

agisse de la violation du droit au juge légal comme en Allemagne ou en Espagne ou encore de l'introduction du dispositif législatif suédois la présentation sans égal à ce jour de près de vingt rapports nationaux permettra de mieux apprécier l'effectivité de la protection juridictionnelle dont disposent les justiciables via le renvoi préjudiciel l'intérêt de cet ouvrage est d'autant plus vif que l'adhésion prochaine de l'Union européenne à la convention européenne des droits de l'homme se traduira vraisemblablement par une revitalisation des dispositions permettant de sanctionner une violation de l'obligation de renvoi préjudiciel cet ouvrage s'adresse principalement aux magistrats et aux avocats ainsi qu'aux universitaires spécialisés dans l'étude du droit processuel

Common Law – Civil Law

2022-01-01

A Common Law for Europe

2005-09-15

L'obligation de renvoi préjudiciel à la Cour de justice

2014-05-27