

# National Reports on the Transfer of Movable in Europe

Volume 4:

France, Belgium, Bulgaria, Poland, Portugal

Schriften zur Europäischen Rechtswissenschaft /  
European Legal Studies / Etudes juridiques européennes

Wolfgang Faber  
Brigitta Lurger (Eds.)

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edited by

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## Preface

This is the fourth volume of a series of national reports on basic issues concerning the acquisition and loss of ownership of movable assets. This fourth volume covers a number of (but not all) jurisdictions applying a ‘consensual transfer model’, many of them in the tradition of the French Code civil.

The full series covers 28 European legal systems, distributed over six volumes and appears as a by-product of the research activities of the Graz & Salzburg working group on ‘Transfer of Movables’ within the ‘Study Group on a European Civil Code’,<sup>1</sup> which was in charge of preparing Book VIII of the Draft Common Frame of Reference (DCFR).<sup>2</sup>

Starting with general property law issues, like the concepts of ownership and possession employed in the respective legal systems and the related means of protection, the reports primarily deal with the ‘derivative’ transfer of ownership, but extend to good faith acquisition from a non-owner, acquisitive prescription, processing and commingling, and to further related issues. Corresponding to the working group’s task within the Study Group, the reports are generally restricted to movable assets and basically leave aside fiduciary transfers, such as transfers for security purposes. After all, they do, however, not only cover mere property law issues, but also much of the related law of obligations, enforcement and insolvency – in a generally accessible language, *i.e.* English.<sup>3</sup>

Publishing the whole series of national reports would not be possible without generous support by a number of institutions. Financial support is granted by the Swiss Institute of Comparative Law (Lausanne), the Austrian Ministry of Science and Research (Bundesministerium für Wissenschaft und Forschung), the Austrian Ministry of Justice (Bundesministerium für Justiz), the Land Salzburg and the Evers-Marcic-Stiftung an der Rechtswis-

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<sup>1</sup> For further information on this project, see *Lurger*, Introduction to the Project ‘Transfer of Movables’: Organisational Framework, Basic Issues and Goals, in: Faber/Lurger (eds.), *Rules for the Transfer of Movables – A Candidate for European Harmonisation or National Reforms?* (2008), 1.

<sup>2</sup> Published in *von Bar/Clive* (eds.), *Principles, Definitions and Model Rules of European Private Law – Draft Common Frame of Reference (DCFR) Full Edition* (2009), Volume V. Book VIII is entitled ‘Acquisition and loss of ownership of goods’.

<sup>3</sup> The concept of these reports is further described in the preface to the first volume of that series: Faber/Lurger (eds.), *National Reports on the Transfer of Movables in Europe – Volume I: Austria, Estonia, Italy, Slovenia* (2008).

senschaftlichen Fakultät der Universität Salzburg. The reports as such as well as a linguistic revision of the whole book are financed by the Austrian Funds for Scientific Research (Fonds zur Förderung der wissenschaftlichen Forschung, FWF). The editors wish to express their gratitude to all these institutions.

We also wish to thank Mrs Monika Lammer for formatting the manuscripts. The national report for Poland, originally written mainly in Polish, was translated into English by Mariusz Bobiński, Katarzyna Diehl, and Kamil Zaradkiewicz. Particular thanks go to Susan-Gale Wintermuth who bestowed great care on linguistically improving all reports and harmonising the terminology used.

March 2010  
Salzburg and Graz

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National Report on the Transfer of Movables  
in France

*Eleanor Cashin Ritaine*



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