National Reports on the Transfer of Movables in Europe

Volume 3: Germany, Greece, Lithuania, Hungary

edited by Wolfgang Faber / Brigitta Lurger

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This is the third volume of a series of national reports on basic issues concerning the acquisition and loss of ownership of movable assets. The full series covers 28 European legal systems 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’,1 which was in charge of preparing Book VIII of the Draft Common Frame of Reference (DCFR).2

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 largely restricted to movable assets and leave aside fiduciary transfers, such as transfers for security purposes. They are, however, not restricted to property law issues, but also cover much of the related areas of the law of obligations, enforcement and insolvency, in a generally accessible language, i.e. English.3

Mary-Rose McGuire’s report on German law is an updated and extended version of a national report already published at an earlier stage of this project;4 we are grateful to Peter Lang Publishers for making this updated publication possible. Another side-note relates to Ferenc Szilágyi’s extensive report on Hungarian law, which not only provides information regarding the rules of the Hungarian Civil Code as in force today, but also

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1 For further information on this project, see Lürger, Introduction to the Project ‘Transfer of Movables’: Organisational Framework, Basic Issues and Goals, in: Faber/Lürger (eds.), Rules for the Transfer of Movables – A Candidate for European Harmonisation or National Reforms? (2008), 1.
3 The concept of these reports is further described in the preface to the first volume of that series: Faber/Lürger (eds.), National Reports on the Transfer of Movables in Europe – Volume I: Austria, Estonia, Italy, Slovenia (2008).
reflections different stages of the current law reform project heading towards a new Hungarian Civil Code. According to current information, received after the finalisation of the manuscript, the Hungarian Constitutional Court declared certain provisions of the Incorporation Act to a New Hungarian Civil Code to be incompatible with the Constitution in late April 2010. The report will, therefore, be ‘up-to-date’ for an – unknown – further period of time.

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We also wish to thank Mrs Monika Lammer for formatting the manuscripts. Particular thanks go to Malcolm Combe, the co-author of the national report on Scots law in volume II of this series, for the great care he displayed in linguistically improving all reports in this volume and harmonising the terminology used.

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