Comparative Study of Mortgage Laws in Europe

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Introduction

This project ties in with a long-term Europe-wide project to ascertain the common core of European private law. Originally based in the University of Trento it is still known as the "Trento" project, even though it has recently moved its base to Torino. (See www.jus.unitn.it/dsg/common-core). The comparative law project is divided into three broad streams: property, contract and tort. My project supervisor is one of the editors of the mortgage section within the property stream. The mortgage group has set a questionnaire on mortgage law to be completed by respondents from EU member states, including the new accession states. My task has been to collate, correct, analyze and assimilate responses to the questionnaires.

Aim

The purpose of my student research project is to organise questionnaire responses within a database, according to the reporting country and the response to particular cases and questions in the questionnaire. I have also amended the responses into plain English and produced a critical commentary to be read alongside the database. When the proceedings and findings of the mortgage group are eventually published, they will appear as a volume in an established series published by Cambridge University Press.

Method

Embarking upon the tasks for this project first involved collating the narrative responses to questionnaires. I then had to analyse responses, correcting any for legal accuracy. Furthermore, I had to ensure proper scholarly referencing in the responses and finally suggest conclusions drawn from responses.

Glossary

In order to ensure uniformity in the responses to the questionnaires, a list of proposed terminology to be used in the *Book on Security Rights over Immovable Property* was adopted. The ease of transposing this terminology into the different legal systems was often difficult due to language barriers where words had different meanings in certain countries or where the legal concepts varied between countries.

Standard Term	Notes (and/or Terms in national languages (Austria: Belglum: Denmark: England: France: Germany: Greece: Hungary: Italy: th Netherlands: Norway: Poland: Portugal: Russia: Scotland: South Africa, Spain: Sweden: Switzerland: Turkey))	Đ
Accessority (principle of)	In relation to security rights, the principle of accessorily indicates that the security parts is indeed for dependent on a security and additional dependent on a security and additional Were there is accessorily events such as nullity or overaction of the sequent obligation avoid or extinguish the security right.	
Actio psuliana	faction for includance in incolorably	
Annulment	Any kind of avoidance of the contract according to the general rules of contract taw air, the law of obligations, with produces by effects or varie (i.e., then the time of the perfection of the contract connects).	1
Assignment	Transfer of movable intangible property, such as claims	
Avoidance	Any land of weldence of the contract according to the general rules of contract law are the law of obligations, which produces its effects or name (i.e. from the time of the actionness)	

Results

The results for each country participating were collated in a table with the original text next to the amended text for each question in the questionnaire. This then made comparison between the countries easier.

The work is still ongoing and collating this research is a step in a long-term process that will result in in-depth analysis and comparison that extends beyond the scope of the duration of the project. The critical commentary takes into account the differing impact of this area of law in the civil and common traditions as well as contemporary language barriers and geographical challenges faced in finding common legal ground.

