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Principles of European Law
Study Group on a European Civil Code

Mandate Contracts

(PEL MC)

prepared by

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with advice from the Advisory Council
and the Drafting Committee approved by the
Co-ordinating Group

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Preface to this volume

These Principles were developed to be included in the Draft Common Frame of Reference (DCFR). They were intended to fill a gap that existed in the works of the Working Team on Commercial Agency, Franchising and Distribution Contracts – of which Odavia Bueno Díaz was a member – and those of the Working Team on Service Contracts – of which I was a member, and in the Principles of European Contract Law (PECL). The PECL contain provisions on representation, dealing with the effects of contracts concluded in the name and on behalf of another party, but do not contain any specific rules governing the internal relationship between the party that is being represented (the principal) and the party representing the principal (the agent). Similarly, the Principles on Commercial Agency, Franchising and Distribution Contracts (included in the DCFR as Book IV.E) more or less presuppose specific provisions on mandate contracts. The Principles on Service Contracts (included in the DCFR as Book IV.C) contain some rules that could be applied to the relationship between the principal and the agent, but these Principles were not developed with this relationship in mind. The relation between these Principles on Mandate Contracts and the DCFR is further explained in Section III of the General Introduction of this Book. In the preceding Section II the relation between these Principles and the Principles of European Law on Service Contracts is explained.

The Working Team on Mandate Contracts, consisting only of Odavia and me, started its work in the spring of 2005, when the volumes on Commercial Agency, Franchising and Distribution Contracts and on Service Contracts were still being developed (the first of these was published in 2006, the second in 2007). It soon became clear that the Working Team would be under a lot of pressure to produce results quickly – the Interim Outline Edition of the DCFR ultimately was published already in 2008, which implied that the major part of the work – consisting of the development of the national reports and the construction on the basis thereof of the major policy choices to be taken and the development of the Articles to be included in the DCFR – would have to be finished as early as the end of 2007 (although the final preparation of this volume would take significantly more time).

Given the time pressure, we were very fortunate to receive the help of the national reporters and, at a later stage, the advisors to prepare our drafts. Both the national reporters and the advisors were willing to come to Amsterdam for extensive discussions on these drafts and the policy decisions that needed to be presented to the Coordinating Committee of the Study Group on a European Civil Code. We are indebted to them for their valuable and generous help. Thanks also go out to Kristen Zetzsche of International Writers for checking the English texts (any remaining errors of course are our responsibility), to my (former) assistants Anouk de Morree, Lotte van der Laan, Daniela Baidoo and Esmée Hoogenkamp for their assistance throughout the project, and to Justus Könkkölä, Michel Séjean, Martin Schmidt-Kessel and Christina Dierks, Cecilia Carrara and Adele Pascale, Monika Jurčová and Marianna Novotná, and Jeanette Andersson for the Finnish, French, German, Italian, Slovak, and Swedish translations of the Principles. The Dutch and Spanish translations were obviously prepared by us.

Amsterdam, September 2012

Marco Loos