Dear reader,

This issue of *Juridica International* continues a solid tradition of offering articles to a wide range of readers while concentrating on one central topic, which this time is the prospects of the right of obligation in Estonia and in Europe. With 2012 came the 10-year anniversary of entry into force of the Law of Obligations Act, the last of the five parts that make up the Estonian Civil Code Act. The highly significant event for Estonian private law of its entering into force on 1 July 2002, together with the General Part of the Civil Code Act, was celebrated on 29–30 November 2012 in Tartu by an international conference at which the issues of implementation of the act were discussed and the tendencies in development of the right of obligation in Europe were analysed. The Law of Obligations Act may be called a science-based act, since its preparation involved analysis of the law of other countries, the sources of common European contract law and international law, and foreign judicial practice at the level of norms and principles, as well as implementation. This was an act prepared on the principle of the 'best solution', one that contributed substantially to the foundation for comparative legal implementation of law and for theoretical studies in comparative law. The method of the best solution has since justified itself, along with adoption of the principles of common European contract law and international trade law. It can be said that efforts to develop direct legal loans, foreign judicial practice, and theoretical views into an internally coherent system that functions without major failures yet can still be called modern and European law in its essence have succeeded. However, it would be incorrect to state that all purposes of the act have been fulfilled—mainly in light of the regulations that have been added later. For instance, the actual purposes of the consumer-protection norms in the Law of Obligations Act and other acts have become questionable, since the solutions provided are ineffective and often discordant with the already developed private-law system. Accordingly, several articles in this issue are dedicated to critical analysis of the purposes of the act and the legal instruments chosen for achieving these purposes.

In the decades since the act was passed, the meaning of national law has changed significantly. In this issue, the reader can find an article by H. Beale, based on a presentation in the private-law portion of the XXXII Estonian Lawyers' Days ('The Constitution at 20: Legal Practice from Pragmatism to Constitutionalism'), examining the Common European Sales Law as a competitor or alternative to the Estonian law. In his article, Prof. Beale gives a simple and clear explanation of the prospects of the private law in the Member States. He envisions competition with the common European private law, which, as part of each Member State's national law, will become a 29th legal system. Publication of a presentation of the proposal for the Common European Sales Law by the European Commission has unleashed new processes in European private law. Therefore, on one hand, we can say with satisfaction that, in principle, Estonia has established its modern private-law system and there is no need for its constant large-scale amendment and rewriting. On the other hand, however, the situation foreseen, involving impending competition, forces the Member States to undertake critical analysis and modernisation of their national legal systems. Issues related to the wider functions of international private law and the position of national law in the private-law system and in administration of justice in the European Union arise with increasing acuteness in this process.

Since each legal system in Europe represents an independent legal culture characteristic only to that legal system, it is inevitable for interpretation of law also to

be culturally determined. In my opinion, the critical element for Estonian law is the lack of fundamental dogmatics of private law in several important fields related to the right of obligation. Considering the Law of Obligations Act from a development perspective in the context of shaping a common European private law means that our understanding of the internal structure of our laws, the hierarchy of our norms, and the methods for interpretation and implementation of law becomes important. For instance, several issues of legal dogmatics pertaining to legal remedies in the Estonian law are raised in this issue of the journal, along with the actual level of protection accorded to consumers in consumer-credit contracts, restitution upon expiry of a contract, etc. It is equally important to know what problems are addressed in Latvia, Russia, Germany, Belgium, or the Nordic countries.

The development of the common European law proceeds from the presumption that supplier parties are less and less tied to a specific country and that, therefore, a neutral law shall be provided to the market participants, so as to speed up and support economic circulation. This would be beneficial to consumers and undertakings alike since it would eliminate the advantages enjoyed by states with so-called well-developed legal systems, whose law is trusted more. Neutral law is based on specific definitions and rules. Estonian lawyers have certain advantages in this process, in that the Law of Obligations Act largely contains the law that has come to be defined as the Common European Sales Law. However, that is not enough. Development of a common understanding is rooted in comparative legal studies, which have not yet, however, been performed in sufficient quantities in Estonia. Turning from private law to common understanding, I would now like to emphasise the importance of law, especially comparative law, in the development of a state's legal system. To the best of my knowledge, legal base studies have received no support or acknowledgement from the Estonian state in recent years. Vital for a strong economy are a coherent legal system and the effective functioning of that system; however, to come up with the best solutions, we have to be familiar with the law of other states, common European private law, and international trade law. In doing so, we should still bear in mind, though, that the basis for comparative legal studies is formed first and foremost of a systematic and scientifically grounded understanding of the law of one's own state, which is, above all, a process, not a condition justified simply by declaring that the Estonian private-law system is complete and needs no amendments.

Comparative legal studies form an inseparable part of more than just private law. The articles on environmental law, financial law, administrative law, penal power, and procedural law published in this issue are also based on comparison, whether norm-based or functional. It is important for us to know what the problems in other countries are and whether they have developed solutions that we could adopt. Estonian participation in the global discourse through legal studies is equally important and a process in which *Juridica International* continues to play an important part.

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