

Download Good Faith In European Contract Law

The Common Core Of European Private Law

In contract law, the implied covenant of good faith and fair dealing is a general presumption that the parties to a contract will deal with each other honestly, fairly, and in good faith, so as to not destroy the right of the other party or parties to receive the benefits of the contract. It is implied in every contract in order to reinforce the express covenants or promises of the contract. The modern law of contract is primarily a creature of the industrial revolution and the social legislation of the 20th century. However, the foundations of all European contract law are traceable to obligations in Ancient Athenian and Roman law, while the formal development of English law began after the Norman Conquest of 1066. William the Conqueror created a common law across England, but ... The oft-quoted passage of Lord Bingham voices the widespread assumption that runs through English contract law discourse, rejecting a doctrine of explicit fairness or good faith. 'A duty of good faith is...inherently inconsistent with the position of a negotiating party.' [4] As Hawthorne observes, "[t]he recognition of the influence of good faith in the South African law of contract ranges from acknowledgment to denial" - Hawthorne 2003 SAMLJ 272. And: "In recent years, in South Africa, good faith has regularly been brought out of the display cabinet, dusted off, and heralded as the basis of all law of contract, only then to be put away having become nothing ...