

ABSTRACT

‘Interpretations of the General Clauses “Public Policy” and “Good Morals” in European Contract Law’

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Public policy and good morals, often combined in the same norm, are general clauses present in many European Civil codes which follow the model of the *Code civil*.

“*L’ordre public et les bonnes mœurs*” are set forth in art. 6 of the preliminary regulations of the *Code civil*, as limits to the private autonomy, and in art. 1133, as reason for of the unlawfulness of the cause of the contract.

The *bonnes mœurs* have relevancy also in the subject matter of the obligations subordinated to conditions (art. 1172) and in the subject matter of matrimonial law (art. 1387).

The Italian Civil code foresees the *bonnes mœurs* first of all in art. 1343, setting the nullity of the cause of the contract if latter contrasts with good morals.

The BGB treats the *gute Sitten* in paragraphs 138, 817, 819, 826 and the EGBGB provides for the limit of the *ordre public* in art. 6.

Notwithstanding the frequent utilization of general clauses like good faith and reasonableness, both the PECL and the DCFR ascribe little relevance to the abovementioned clauses of public policy and good morals.

The main issue for the legal scholar in front of public policy and good morals is the one of their interpretation/concretization, i.e. to identify the significance of the mentioned general clauses, which has profoundly changed during the years.

In this matter, one can highlight the broadly discussed question of the limits which the European Court of Justice meets when interpreting/applying general clauses.