PART 4

CONTRACT AND UNJUST ENRICHMENT – RECONCILING DIFFERENT JURISDICTIONAL APPROACHES
Chapter 14
Specific Performance in the Common and Civil Law: Some Lessons for Harmonisation

Lucinda Miller*

INTRODUCTION

A European contract law is no longer of purely theoretical interest. Work is currently underway on the drafting of what has been denominated the ‘Common Frame of Reference’ (hereafter CFR). This CFR, although still somewhat shrouded with ambiguity as to its true nature and purpose, is nevertheless an important indicator as to how the European Commission envisages the future of contract law in Europe and it has been given political approval in the Hague Programme of the European Council.¹ Such a significant development has a

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¹ The Hague Programme on Strengthening Freedom, Security and Justice in the EU was agreed by Heads of State at the European Council on 5 November 2004. Contract law was embraced within its programme for strengthening justice, a programme that forms the third plank in the triptych of freedom, security and justice. Within this programme of justice, and under a rubric of ‘confidence building and mutual trust’, specific action for improving the quality and coherence of EU legislation is timetabled. It is