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### \*\*\*\* Hotel Carlton Ferrara

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## How to reach us

www.unife.it/it



Connection to Bologna airport:

www.ferrarabusandfly.it  
www.trenitalia.it

Important telephone numbers  
during the conference

Conference office: +39 345 340 10 50

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## Organization

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For registration and conference documents:  
www.unife.it/eccl

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CEDAM



Dipartimento di Giurisprudenza  
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2<sup>ND</sup> FERRARA FORUM  
ON EUROPEAN  
CONSUMER AND  
CONTRACT LAW

**Unfair Commercial  
Practices and  
Private Law of  
EU Member States**

*The Impact of Directive  
2005/29/EC on National  
Contract and Tort Law*

**8-9 October 2015**

University of Ferrara  
Department of Law, Aula Magna

# Objectives and Issues of the Conference

10 years after entry into force of the Directive 2005/29/EC, concerning unfair business-to-consumer commercial practices in the internal market, the impact of the respective implementation provisions on private law of EU Member States still remains unclear.

As the aforementioned directive 'is without prejudice to contract law and, in particular, to the rules on the validity, formation or effect of a contract' (Art 3, para 2) and 'without prejudice to individual actions brought by those who have been harmed by an unfair commercial practice' (Recital No 9), EU Member States were therefore not obliged, in order to implement the directive, to modify national contract and tort law rules and especially to introduce special private law remedies for the breach of the prohibition of unfair commercial practices.

Nevertheless by implementing the directive several national legislators spontaneously introduced ad hoc provisions, expressly conferring special contract and/or tort law remedies to consumers harmed by unfair commercial practices.

On the other side, in EU Member States whose legislators didn't adopt such a solution, it is discussed, whether and under which conditions the violation of the prohibition of unfair commercial practices can – by applying general principles of private law – affect the validity and the effectiveness of contracts concluded by consumers and/or can be qualified as a tort.

As a consequence deep differences have arisen among the EU national systems, so that the crucial question concerning the relationship between provisions on unfair commercial practices, contract and tort law as well as competition law is far away from coming to a clear, coherent and satisfying result.

Indeed, despite the full harmonisation of the criteria and parameters provided in order to qualify a commercial practice as unfair, the consequences arising from the violation of the relative provisions remain deeply fragmented in the different EU Member States.

Does that mean a total or – at least – partial failure of the harmonization task of the Directive on unfair commercial practices? The main purpose of the conference is therefore to outline the overall framework of the EU Member States' provisions and thereafter to give an answer, from the perspective of the EU Member States, to the following crucial question: would it be appropriate and/or necessary to provide a (real) full harmonisation also of private law consequences arising from the violation of the prohibition of unfair commercial practices?

# Conference Programme

## Thursday 8 October

### 14:30 Opening addresses

14:40 European Consumer and Contract Law -  
New Challenges and the Role of ELI  
Prof. **Diana Wallis**  
*University of Hull*  
*President of the European Law Institute*

### 15:00 First session

Chair  
Prof. **Michael Lehmann**  
*Ludwig Maximilian University of Munich*  
*Max Planck Institute for Innovation and  
Competition, Munich*

Country Report - Germany  
Prof. **Karl-Nikolaus Peifer**  
*University of Cologne*

Country Report - Austria  
Prof. **Susanne Augenhöfer**  
*Humboldt University of Berlin*

### 16:30 Coffee Break

16:45 Country Report - Portugal  
Prof. **Pedro Maia**  
*University of Coimbra*

Country Report - Belgium  
Prof. **Reinhard Stennot**  
*University of Gand*

### 18:15 Discussion

## Friday 9 October

### 9:00 Second session

Chair  
Prof. **Ulf Bernitz**  
*University of Stockholm*  
*University of Oxford*

Country Report - France and Luxembourg  
Prof. **Elise Poillot**  
*University of Luxembourg*

Country Report - United Kingdom  
Prof. **James Devenney**  
*University of Exeter*

Country Report - Poland  
Prof. **Igor B. Nestoruk**  
*University of Poznań*

### 10:30 Coffee Break

10:45 Country Report - The Netherlands  
Prof. **Vanessa Mak**  
*University of Tilburg*

Country Report - Italy  
Prof. **Giovanni De Cristofaro**  
*University of Ferrara*

Country Report - Switzerland: The Impact of  
UCP-Directive on the Private Law  
of a non EU Member State  
Prof. **Peter Jung**  
*University of Basel*

### 12:45 Discussion