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The impact of EU Law on Dutch Property Law

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PROPOSITIONS

Accompanying the PhD thesis

The impact of EU Law on Dutch property law
A study of the implementation of the collateral directive

by D.F. Kopalit

1. Since the prohibition to transfer property for security purposes has lost its meaning, Article 3:84 par. 3 DCC should be removed from the Dutch Civil Code.
2. In Case C-107/17 *Aviabaltika v Ūkio bankas*, the CJEU interpreted Article 4 (1) and (5) of the Collateral Directive in light of the objectives pursued by the directive, namely safeguarding financial stability and limiting contagion risk in case of default. Adopting this teleological approach was unnecessary and also undesirable because it, inter alia, leads to uncertainty about whether and if so, to what extent other aspects of the directive should be interpreted in light of those objectives as well.
3. In view of the legal developments in Europe, it is sensible to adopt a registration system for security rights over movable property.
4. Considering the principle of *numerus clausus*, it should not be possible to establish one or more limited property rights in such a way that they in all relevant aspects ‘mimic’ another property right, unless there is an overriding reason.
5. Even though formalities often have a negative connotation, they do serve an important role in property law and should not be readily discarded.
6. Comparative law should play an important role in legal education, because it provides students with a better understanding of their own national private law.
7. Law has no higher moral value, merely because it is adopted by the legislator. If an individual believes that a particular legal rule conflicts with his conscience, he has no moral obligation to obey that rule.