Table of Contents

Preface and Acknowledgements				
List of	List of Abbreviations			
Снартен	R 1			
Declarations in General				
§1.01	Preliminary Remarks	1		
§1.02	Declaratory Relief in Litigation	2		
§1.03	Declaratory Relief in Arbitration	5		
§1.04	Legal, Real and Converged Interest in Declaratory Relief: The Concept			
	of the Book	6		
CHAPTER 2				
	ncept of 'Legal' Interest in Germanic Systems of Law	9		
§2.01	Genesis of the Concept of Declaratory Relief	9		
§2.02	History of the German Concept	10		
§2.03	Impact of the German Concept on Other Germanic Jurisdictions	13		
§2.04	The Notion of Legal Interest as a Prerequisite	16		
§2.05	The Components Constituting Legal Interest	19		
§2.06	Uncertainty	20		
§2.07	Uncertainty Unbearable for the Claimant	21		
§2.08	Final Settlement: Subsidiarity Principle	22		
§2.09	The Object of the Declaration	24		
§2.10	Balancing the Interests of the Parties in Negative Declarations	26		
§2.11	The Degree of Subjectivity in Legal Interest Assessment	27		
§2.12	Procedural or Substantive Nature of the Legal Interest	28		
§2.13	Ex Officio	30		
§2.14	Purpose of the Declaration and Legal Interest Prerequisite	31		
§2.15	Conclusion: The Germanic Concept of Legal Interest	33		

CHAPTER	3	
The Cor	ncept of 'Real' Interest in English Law	37
§3.01	The Genesis of Declarations in English Law	37
§3.02	What 'Interest' Allows English Courts to Grant a Declaration	39
§3.03	The Real Interest Setting	46
§3.04	Utility	51
§3.05	Subsidiarity Principle	59
§3.06	The Evolutionary Nature of the English Law on Declarations	63
§3.07	Summary	70
CHAPTER	. 4	
The Co	ncept of 'Converged' Interest in International Arbitration Awards	73
§4.01	Introduction	73
	[A] The Practical Value of Declarations	73
	[B] The Arbitrators Authority to Grant Declarations	74
	[C] The Legal Interest in Case of Declarations in Arbitration	77
	[D] The Scope of Research	79
	[E] Declaratory Relief in Arbitration	80
	[F] Declarations upon Jurisdiction	81
§4.02	Declaratory Relief and Its Admissibility in Sectoral Research of M&A	
	Arbitrations	83
	[A] General Remarks	83
	[B] Lack of Legal Interest	84
	[C] No Admissibility Issue Raised	84
	[D] Common Law as Lex Arbitri	85
	[E] No Admissibility Issue Raised: French Law as Lex Arbitri	88
	[F] No Admissibility Issue Raised: Germanic (Swiss and German)	
	Law as Lex Arbitri	90
	[G] No Admissibility Issue Raised: Other Jurisdictions	92
	[H] Cases Settled	94
	[I] Conclusions	95
§4.03	The Concept of Legal Interest in General Arbitration Research	95
	[A] Introduction	95
	[B] The Autonomous Approach	96
	[C] The Local Law Approach	108
	[D] Converging Civil and Common Law Elements	109
§4.04	Specific Issues Relating to Admissibility of Declaratory Relief	114
	[A] Introduction	114
	[B] Admissibility of Declarations on Future Liability	114
	[C] Substantive or Procedural	120
	[D] The Wording of the Declaration and Possible Interference with	
	the Legal Interest of a Claimant	123
	[E] Legal Interest and Iura Novit Curia	128
	[F] With or Without Prejudice	129
§4.05	Conclusions	130

Table of Contents

CHAPTER 5		
The Problem of Redefinition of Legal Interest Concept in Light of the	ne	
Access to Justice Principles		
§5.01 The Need for Redefinition	131	
§5.02 Substantive or Procedural Justice	136	
§5.03 Access to Justice and Procedural Justice Principles as a Cog	nitive	
Perspective	139	
§5.04 The Idea of Fair Treatment; Normative Expectations and Int	tuitive	
Expectations in Light of Predictability Principle	144	
§5.05 Inherent Values of the Civil Procedure	148	
§5.06 Arguments Relating to Textual Interpretation	152	
§5.07 Arguments Relating to Teleology and Systemic Coherence	161	
§5.08 Balancing Procedural Justice with Effectiveness	174	
§5.09 Final Conclusions	177	
Annexes		
Reports on Main Features of Declarations in Germanic Jurisdictions		
Annex I		
Report on Main Features of Declarations in Austria	100	
Ulrich Kopetzki	185	
Annex II		
Report on Main Features of Declarations in Germany		
Alicja Zielińska-Eisen & Tobias Strecker	223	
Annex III		
Report on Main Features of Declarations in Poland		
Beata Gessel-Kalinowska vel Kalisz & Joanna Kisielińska-Garncarek	257	
A		
ANNEX IV		
Report on Main Features of Declarations in Switzerland	205	
Nino Sievi	285	
Bibliography		
Table of Cases		
Table of Legislation and Statutes		
Indov		
Index	345	