

Studien zum ausländischen und internationalen Privatrecht

Edited by the Max-Planck-Institut für ausländisches und internationales Privatrecht
Directors: Holger Fleischer, Ralf Michaels, and Reinhard Zimmermann

The *Studien zum ausländischen und internationalen Privatrecht* series was founded in 1980. Outstanding dissertations, and in some cases multi-authored works, are published in this series. The focal point of the works accepted in the series is confined to the Max Planck Institute's fields of research in private international law, comparative law and European law. Although most of the works published in this series were written by members of the Max Planck Institute, this is not a prerequisite for acceptance of a manuscript.

Contact:

Dr. Julia Caroline Scherpe-Blessing, LL.M. (Cantab)
Program Director Private Law, Criminal Law, and Procedural Law

ISSN: 0720-1141 - Suggested citation: StudIPR

Last updated: 23/10/2020. Prices are subject to change.

Order now:

https://www.mohrsiebeck.com/en/monograph-series/studien-zum-auslaendischen-und-internationalen-privatrecht-studipr?no_cache=1
order@mohrsiebeck.com

Phone: +49 (0)7071-923-0

Fax: +49 (0)7071-51104

Ergöner, Onur

Das türkische Schiedsrecht und die Rolle der türkischen Gerichte in der internen und internationalen Schiedsgerichtsbarkeit

Mit vergleichenden Erörterungen zum deutschen und schweizerischen Recht

2021. Approx. 540 pages.
forthcoming in December

ISBN 9783161547836
sewn paper approx. 80,00 €

ISBN 9783161547843
eBook PDF approx. 80,00 €

Onur Ergöner deals with the comparative analysis of Turkey's new local and international arbitration law and looks at the role of the state courts in arbitral proceedings right up to when an arbitral award is rendered. The author looks to German and Swiss law to solve individual problems of the new Turkish arbitration law.

Aleiner, Leonid

Unternehmensrechtliche Selbstregulierung und ihre Erfolgsbedingungen

Eine rechtsökonomische, -soziologische und -vergleichende Untersuchung unter Berücksichtigung übernahme- und insiderrechtlicher Regelungen in Deutschland und dem Vereinigten Königreich sowie des DCGK

2021. Approx. 220 pages.
forthcoming in March

ISBN 9783161592898
sewn paper approx. 50,00 €

ISBN 9783161592904
eBook PDF approx. 50,00 €

As more and more companies make their own rules, how can it be ensured that these are as effective as government legislation? And when should the state take advantage of such private regulation initiatives? Leonid Aleiner examines the legal and economic conditions for effective self-regulation, arguing for it to be consciously implemented in conventional law.

Gubenko, Elena

Die Abgrenzung des Erbstatuts vom Sachstatut in der EuErbVO

2021. Approx. 340 pages.
forthcoming in January

ISBN 9783161593666
sewn paper approx. 60,00 €

ISBN 9783161593673
eBook PDF approx. 60,00 €

How would the legacy or usufruct of a French testator be treated if the estate was located in Germany? Can the legatee of these rights be issued with a European Certificate of Succession? Elena Gubenko examines how these questions are dealt with under German and French law.

Ziereis, Marie-Therese

Die Staatensukzession im Internationalen Privatrecht

2021. Approx. 290 pages.
forthcoming in January

ISBN 9783161597947
sewn paper approx. 55,00 €

ISBN 9783161597954
eBook PDF approx. 55,00 €

German reunification, the collapse of Yugoslavia, or Russia's annexation of Crimea are just three of the best-known examples of state succession. Marie-Therese Ziereis takes a comprehensive look at the effects such successions of state have on private international law.



Bremenkamp, Fernanda Luisa

Rechtliche Governance von Zulieferverträgen

Eine vergleichende Untersuchung in der Automobilindustrie zum deutschen, italienischen und englischen Recht

2020. Approx. 350 pages.
forthcoming in November

ISBN 9783161593895
sewn paper 64,00 €
ISBN 9783161593901
eBook PDF 64,00 €

How are complex long-term supply chain relationships legally structured? What influence does the legal framework of the relevant legal system have and what role do standard terms play? The object of comparison is an area that has recently attracted media attention due to suppliers' delivery stops against Volkswagen and Daimler in Germany.

Dregelies, Max

Territoriale Reichweite von Unterlassungsansprüchen

Eine Studie mit Schwerpunkt im deutschen und europäischen Persönlichkeits- und Immaterialgüterrecht

Volume 454
2020. XXIV, 293 pages.
forthcoming in November

ISBN 9783161597664
sewn paper 59,00 €
ISBN 9783161598111
eBook PDF 59,00 €

A libellous remark about a foreign head of state, the erroneous use of a foreign brand or patented product – conflicts nowadays know no national boundaries. International trade and our consumption of media from all parts of the world via the internet mean there is all the more reason to find a definitive answer to the question of whether national injunctive relief claims can lead to international bans.

Rudert, Adrian

Der Konflikt zwischen Sicherungsnehmer und Vollstreckungsgläubiger

Eine rechtsvergleichende Studie zu Sicherungseigentum nach deutschem und security interest nach kanadischem Recht

Volume 453
2020. XXI, 299 pages.
forthcoming in November

ISBN 9783161597718
sewn paper 59,00 €
ISBN 9783161598104
eBook PDF 59,00 €

The ranking of interests in personal property is one of the apples of discord in legal discourse. This is especially true where the priority conflict between secured creditors and judgment creditors is concerned. Adrian Rudert addresses this issue by comparing the legal mechanisms in German and Canadian law.

Cejka, Jaroslav

Kollisionsrechtliche Probleme grenzüberschreitender Überweisungen

Ein Beitrag zur Diskussion um die akzessorische Anknüpfung



Volume 452
2020. XXII, 365 pages.
forthcoming in November

ISBN 9783161594274
sewn paper 69,00 €

ISBN 9783161594281
eBook PDF 69,00 €

A cross-border credit transfer regularly consists of a chain of giro relationships, which extends from the originator via one or more banks to the beneficiary. If the transfer is not properly executed, the question of restitution of the transfer amount and compensation for any consequential damage arises. In determining the law applicable to these issues, conflict-of-law rules traditionally follow a segment-related approach. Jaroslav Cejka deals specifically with the question of whether this approach should be maintained in international credit transfer law or whether the factual context of the individual giro relationships requires the application of one single legal system to the entire credit transfer operation.

Bornheim, Jan Jakob

Property Rights and Bijuralism

Can a Framework for an Efficient Interaction of Common Law and Civil Law Be an Alternative to Uniform Law?

Volume 451
2020. XXXVII, 554 pages.

ISBN 9783161591686
sewn paper 89,00 €

ISBN 9783161591693
eBook PDF 89,00 €

Jan Jakob Bornheim analyses the hypothesis about the inherent efficiency of common law compared to civil law. He examines key commercial property law concepts (i.e., ownership and security interests in relation to movables) and determines the characteristics of each system with regard to these. Using the Canadian experience as a model, he then takes a close look at how the two legal systems interact, arguing that efficient interaction can take place on both vertical and horizontal planes. On the vertical plane, property law would be able to interact with higher-level law (e.g., federal law in a federal state); on the horizontal plane, property laws of different jurisdictions could interact through the conflict of laws. The author also contends that equitable property rights, including constructive trusts as a response to unjust enrichment, should be governed by property law choice-of-law rules.

Diehl, Yannick

Die Dogmatik der »Berücksichtigung« im Internationalen Deliktsrecht

Zu Art. 17 Rom II-VO

Volume 450
2020. XVIII, 218 pages.

ISBN 9783161596551
sewn paper 54,00 €

ISBN 9783161596568
eBook PDF 54,00 €

The account taken of the rules of safety and conduct in international tort law is an on-going and hot topic of debate. Yannick Diehl traces the historical development of this legal phenomenon to come up with a comprehensive concept for its categorisation against the backdrop of Art. 17 of the Rome II Regulation.

Guedjev, Lubomir N.

Das Internationale Familienrecht Bulgariens

Volume 449
2020. XXXIX, 519 pages.

ISBN 9783161590245
sewn paper 84,00 €

ISBN 9783161590252
eBook PDF 84,00 €

Lubomir N. Guedjev deals with everything from marriage to divorce and adoption as set out in Bulgarian family law. He pays special attention to matrimonial property rights, problems associated with changing statutes, and the choice of matrimonial property law. The study is rounded off with a wealth of practical examples, which make for easy comprehension of the legal material.

Beck, Marcel

Erblasserwille und Testamentwortlaut

Eine vergleichende Untersuchung des deutschen und englischen Rechts zur Reformation und Kassation einseitiger testamentarischer Verfügungen



Volume 448
2020. XX, 342 pages.

ISBN 9783161593970
sewn paper 64,00 €
ISBN 9783161593987
eBook PDF 64,00 €

Should the law realise the testator's intention, even though it deviates from the wording of the will? Marcel Beck shows by way of legal comparison that English common law contains significant impulses for a new concept in German inheritance law.

Dietrich, Marc

Die situative Anwendung von Art. 17 Brüssel Ia-VO und Art. 6 Rom I-VO

Eine Untersuchung des kollisions- und zuständigkeitsrechtlichen Verbraucherschutzes unter Berücksichtigung US-amerikanischer Grundsätze

Volume 447
2020. XXV, 363 pages.

ISBN 9783161594090
sewn paper 69,00 €
ISBN 9783161594106
eBook PDF 69,00 €

Having reference to US rules, Marc Dietrich develops an enterprise-centered approach to interpreting the situational scope of consumer protection rules in Article 17 et seq. of the Brussels Ia and Article 6 of the Rome I Regulation before going on to consider the ensuing tension with the requirements of the EU's Geo-Blocking Regulation.

Danninger, Nadja

Organhaftung und Beweislast

Directors and officers can be liable to their company for breaches of duty. Yet which party bears the burden of proof? Nadja Danninger uses a multi-dimensional research approach to outbalance the burden of proof in theory and in practice.

Volume 446
2020. XXVII, 228 pages.

ISBN 9783161594670
sewn paper 54,00 €
ISBN 9783161594687
eBook PDF 54,00 €

Raach, Stephanie-Marleen

Herausgabeklagen in internationale Kulturgutleihgaben

The current developments in the field of national, European, and international cultural property law, lead Stephanie-Marleen Raach to examine central procedural issues of third party claims for cultural objects of foreign states on temporary loan for an exhibition. She critically analyses whether such claims are admissible and whether state immunity protects such temporarily lent items from measures of constraint.

Volume 445
2020. XXIV, 308 pages.

ISBN 9783161591624
sewn paper 59,00 €
ISBN 9783161591631
eBook PDF 59,00 €

Galneder, Bernd

Vertragsumsteuerung wegen antizipierten Vertragsbruchs im Vorfeld der Insolvenz

Eine rechtsvergleichende Untersuchung des § 323 IV BGB und Art. 72 CISG unter besonderer Berücksichtigung der §§ 103 ff. InsO

Volume 444
2020. XXX, 510 pages.

ISBN 9783161593307
sewn paper 79,00 €

ISBN 9783161593314
eBook PDF 79,00 €

The so-called anticipatory breach doctrine enshrined in Section 323 IV of Germany's BGB and Section 72 of the CISG raises the question whether a predicted insolvency provides a right of termination of contract. At first sight, such a right would not be in compliance with the current treatment of contracts that are not fully performed under German insolvency law. However, Bernd Galneder's study reveals a new approach to contracts that are subject to insolvency proceedings, and thereby paves the way to allow a termination of contract based on anticipatory breach.

Behr, Angelina Maria

Schmerzensgeld und Hinterbliebenengeld im System des Schadensrechts

Ein deutsch-italienischer Rechtsvergleich unter besonderer Berücksichtigung der Haftung im
Straßenverkehr

Volume 443
2020. XXXVIII, 323 pages.

ISBN 9783161592041
sewn paper 64,00 €

ISBN 9783161592072
eBook PDF 64,00 €

Angelina Maria Behr compares the framework conditions for liability in road accidents in German and Italian law and examines the limitation of claims made in such cases. Addressing in detail the development, compensation content, and the assessment of damages for the pain and suffering of victims, she shows for the first time the conditions under which claims are passed on by way of succession to the relatives of those killed in accidents and how the two systems recognise bereavement damages for relatives.

Seifer, Jan-Hendrik

Ausländische Mobiliarkreditsicherungsrechte im inländischen Rechtsverkehr

Eine kollisionsrechtliche, rechtsvergleichende und unionsrechtliche Untersuchung am Beispiel
schwedischer Kreditsicherungsrechte

Volume 442
2020. XXXV, 420 pages.

ISBN 9783161582462
sewn paper 74,00 €

ISBN 9783161582479
eBook PDF 74,00 €

Securities are indispensable for granting credit in international trade and commerce. Jan-Hendrik Seifer examines the circulation of foreign security rights in moveable assets in the domestic legal system by comparing German and Swedish security rights. Special attention is drawn to the compliance with the free movement of EU common market capital.

Wächter, Vincent

Die Schiedseinrede bei Auslandsberührung

The arbitration defence (*exceptio arbitri*) is the most prominent procedural application for the dismissal of a claim in German civil procedure. Vincent Wächter investigates this application from a comparative perspective and explores the complex choice-of-law issues civil courts face when presented with such an application in situations involving a cross-border element.

Volume 441
2020. XXXIII, 395 pages.

ISBN 9783161591396
sewn paper 69,00 €

ISBN 9783161591402
eBook PDF 69,00 €

von Falkenhausen, Marie

Menschenrechtsschutz durch Deliktsrecht

Unternehmerische Pflichten in internationalen Lieferketten



Volume 440
2020. XX, 394 pages.

ISBN 9783161593147
sewn paper 69,00 €
ISBN 9783161593154
eBook PDF 69,00 €

The social and environmental conditions governing many business supply chains throughout the world are so dire that they frequently constitute violations of human rights. In this study, Marie von Falkenhausen examines whether German tort law allows victims to claim damages from German companies whose suppliers abuse human rights. The first step is to establish whether the legislation recognises any duties of care to avert human rights risks in the supply chain. The second prerequisite for liability is that the relevant human rights are covered by the law's scope of protection. The author also explores opportunities for legal development in Germany and the possible impetus from recent UK rulings on the issue.

Gleim, Jakob

Letztwillige Schiedsverfügungen

Geltungsgrund und Geltungsgrenzen

Volume 439
2020. XXVI, 354 pages.

ISBN 9783161592850
sewn paper 69,00 €
ISBN 9783161592867
eBook PDF 69,00 €

Is it possible for the testator to mandate unilaterally that all disputes concerning the estate are to be arbitrated instead of litigated? Jakob Gleim provides answers to this question by balancing the decedent's freedom of disposition against the rights of the beneficiaries.

Wurm, Christoph

Der Gläubiger- und Schuldnerwechsel im reformierten französischen Recht

Eine Betrachtung aus nationaler und europäischer Perspektive

Volume 438
2020. XXIII, 215 pages.

ISBN 9783161593062
sewn paper 54,00 €
ISBN 9783161593079
eBook PDF 54,00 €

Alongside the assignment of claims and debts, French law offers a diverse range of alternatives to change the creditor or debtor in obligatory relations. Christoph Wurm asks whether this regulation makes sense from an intra-state perspective and whether it would be suitable as a European-wide model.

Hardung, Philipp F.

Die europäische Titelfreizügigkeit

Ein Beitrag zur Konsolidierung und Kohärenzförderung

Volume 437
2020. XXX, 374 pages.

ISBN 9783161582608
sewn paper 69,00 €
ISBN 9783161582615
eBook PDF 69,00 €

There is currently no unified way to understand and follow the processes of cross-border recognition and judicial decision-making within the European Union. In fact, this legal field is littered with a complex collection of numerous norms and an equally large amount of regulations. Philipp F. Hardung's consolidating clear-up of the system aims to make it easier to apply, and thereby increase both legal certainty and clarity.

Breder, Sebastian

Die Verzahnung der Brüssel Ia-VO mit der Schiedsgerichtsbarkeit bei Parallelverfahren



Volume 436
2020. XXX, 380 pages.

ISBN 9783161590818
sewn paper 69,00 €

ISBN 9783161590825
eBook PDF 69,00 €

Cross-border parallel proceedings before state courts and arbitral tribunals are arguably one of the most difficult and controversial scenarios in European civil procedural law. Sebastian Breder examines the parties' options to prevent or at least limit the effect of each other's proceedings.

Weitzdörfer, Julius

Verbrauchercreditregulierung in Japan

Volume 435
2020. XX, 440 pages.

ISBN 9783161569661
sewn paper 69,00 €

ISBN 9783161569678
eBook PDF 69,00 €

Based on fifteen years of research on organised financial crime in Japan and the reform of its consumer credit legislation, Julius Weitzdörfer analyses how the country addressed one of its most pressing socio-economic issues. The result is an empirically rich portrait of Japanese civil, criminal and supervisory law until the end of the *Heisei* period.

Schmitz, Christine

Die »Annahme« öffentlicher Urkunden nach Art. 59 Abs. 1 EuErbVO

Volume 434
2020. XVII, 302 pages.

ISBN 9783161589935
sewn paper 59,00 €

ISBN 9783161589942
eBook PDF 59,00 €

The increasing importance of inheritance cases with a foreign element saw the European Succession Regulation introduce a new approach to the »acceptance« of authentic instruments. Christine Schmitz shows that this does not concern the recognition of the authentic instrument's content, but rather the procedural conflict-of-law rule and the extension of the instrument's evidentiary effects. The author's consequent investigation of the notion of evidentiary effect enables her to propose an autonomous definition of it.

Rüsing, Christian

Grenzüberschreitende Versicherungsvermittlung im Binnenmarkt

Internationales Aufsichts- und Privatrecht

Volume 433
2020. XXVI, 389 pages.

ISBN 9783161590221
sewn paper 69,00 €

ISBN 9783161590238
eBook PDF 69,00 €

The Insurance Distribution Directive has not fully harmonised the law of insurance intermediation in the EU member states. Insurance intermediaries providing services in other countries therefore still need to know what regulatory requirements and private law they have to comply with. Christian Rüsing analyses the law applicable to cross-border insurance intermediaries with a focus on the relationship between public and private law.

Sahner, Andreas

Materialisierung der Rechtswahl im Internationalen Familienrecht

Zur Bedeutung des Schwächerenschutzes im Europäischen Kollisionsrecht

Volume 432
2019. XXVII, 522 pages.

ISBN 9783161582622
sewn paper 79,00 €

ISBN 9783161582639
eBook PDF 79,00 €

Parties in European International Family Law are required to decide freely which law they use, even though there is a danger that this could be against their best interests. So under which circumstances can such choice be considered free? Andreas Sahner's study details the materialisation of the conflict of laws through choice of law and presents the concept of the protection of the weaker party's autonomy in International Family Law.

Eichenhofer, Philipp

Rechtsmissbrauch

Zu Geschichte und Theorie einer Figur des Europäischen Privatrechts

Volume 431
2019. XVII, 272 pages.

ISBN 9783161562822
sewn paper 59,00 €

ISBN 9783161562839
eBook PDF 59,00 €

How the abuse of rights is regulated in Europe's legal systems is something of an enigma. While some observers detect that common ground is being neared, others assert that the more defined concepts only serve to highlight the fundamental disparities that remain. Philipp Eichenhofer unravels the mystery by assessing the similarities and differences found in the three clear stances taken by France, Germany and England. His study goes beyond a mere comparison of rules and cases, however, and shifts the focus onto an analysis of the doctrine and theories which were crucial in shaping each national view.

Harms, Charlotte

Neuaufgabe der Datumtheorie im Internationalen Privatrecht

Volume 430
2019. XX, 256 pages.

ISBN 9783161568886
sewn paper 59,00 €

ISBN 9783161568893
eBook PDF 59,00 €

Conflicts of law rules applied in German courts do not always fit the specific case being decided, meaning that judges have always had to consider certain laws which are not applicable according to the conflicts of law rules. The local data theory is a way of disclosing and structuring this discordance to help restore legal clarity and certainty.

Weber, Kathrin

Sanktionen bei vorvertraglicher Informationspflichtverletzung

Eine Untersuchung am Beispiel des elektronischen Geschäftsverkehrs sowie sonstiger Fernabsatzverträge

Volume 429
2019. XXVI, 402 pages.

ISBN 9783161582356
sewn paper 69,00 €

ISBN 9783161582363
eBook PDF 69,00 €

Pre-contractual information obligations are considered a successful instrument of consumer protection. Kathrin Weber analyses whether the numerous provisions on such obligations are accompanied by an adequate system of penalties for breaches. Taking into account specific European directives, model rules and national law, she develops a proposal to bridge the gaps and ease legal uncertainty.

Holst, Jan Frederik C.

Die Separierung von Unternehmensteilen in insolvenzrechtlichen Sanierungsverfahren

Ein deutsch-spanischer Rechtsvergleich

Volume 428
2019. XLIV, 520 pages.

ISBN 9783161582035
sewn paper 79,00 €

ISBN 9783161582042
eBook PDF 79,00 €

European legislators are striving to modernise the law in a bid to stop insolvent firms from being stripped of all assets. Restructuring proceedings have moved away from their executory roots and are changing from debt-clearing procedures into instruments of corporate law. The last legal reforms in Germany and Spain have opened up the way for a new translative approach in insolvency restructuring proceedings. Jan Frederik C. Holst analyses legal procedures and techniques for the division of companies during insolvency restructuring proceedings and asks whether business transfer techniques grounded on principles of business continuity as anchored in Spanish law could provide solutions for Germany.

Engel, Andreas

Internationales Kapitalmarktdeliktsrecht

Eine Untersuchung zum anwendbaren Recht der Prospekthaftung und der Haftung für fehlerhafte Sekundärmarktinformation (insbesondere Ad-hoc-Publizität) in den USA und der EU

Volume 427
2019. XXXI, 371 pages.

ISBN 9783161565717
sewn paper 69,00 €

ISBN 9783161565724
eBook PDF 69,00 €

Capital markets are becoming ever more international. But which law governs the claims of investors who have been harmed by erroneous information? Andreas Engel investigates and compares the relevant conflict of laws rules in the United States and Europe.

Bader, Richard Johannes

Koordinationsmethoden im Internationalen Privat- und Verfahrensrecht

Volume 426
2019. LI, 527 pages.

ISBN 9783161570155
sewn paper 89,00 €

ISBN 9783161570162
eBook PDF 89,00 €

Private international law consists of a diversity of statutes derived from national; EU and international levels. Due to this diversity, is it possible to coordinate these rules and statutes within the same level and between the levels effectively, and if not how can coordination be improved? The author analyzes the methods used to achieve this coordination, determines problems of coordination and presents the best solutions. The solutions are arranged according to groups, and this will result in establishing principles to solve coordination problems.

Gräf, Stephan

Drittbeziehungen und Drittschutz in den Europäischen Güterrechtsverordnungen

Volume 425
2019. XXXIV, 531 pages.

ISBN 9783161581991
sewn paper 79,00 €

ISBN 9783161582004
eBook PDF 79,00 €

The disparities between the national rules on matrimonial property regimes and on the property consequences of registered partnerships have resulted in a strong need for the protection of third parties contracting with transnational couples. In the future these conflict of laws problems must be solved on the basis of the new Council Regulations (EU) 1103/2016 and 1104/2016. Stephan Gräf analyzes the element of the third party in these new rules, covering applicable law as well as jurisdiction.

Hemler, Adrian

Die Methodik der »Eingriffsnorm« im modernen Kollisionsrecht

Zugleich ein Beitrag zum Internationalen Öffentlichen Recht und zur Natur des *ordre public*

Volume 424
2019. XXV, 315 pages.

ISBN 9783161583162
sewn paper 64,00 €

ISBN 9783161583179
eBook PDF 64,00 €

Adrian Hemler identifies the application of overriding mandatory provisions as a symptom of numerous fundamental uncertainties in the doctrine of private international law. He finds that the theory of overriding mandatory provisions obscures the fact that private international law needs further differentiation with conflict-of-law rules yet to be developed. Based on this, he reasons that the doctrine of the *ordre public* simply states the supremacy of constitutional law.



Lendermann, Marc

Strafschadensersatz im internationalen Rechtsverkehr

Die Behandlung ausländischer punitive damages im deutsch-französischen Rechtsvergleich

Volume 423
2019. XXII, 337 pages.

ISBN 9783161558689
sewn paper 69,00 €

ISBN 9783161558696
eBook PDF 69,00 €

The case law of the German and French supreme courts differs with regard to the enforcement of foreign judgments awarding punitive damages. Marc Lendermann examines the differences in the interpretation of the respective public policy of both countries and argues for a convergence in the treatment of foreign punitive damages.

Himmer, Thomas

Das europäische Konzerninsolvenzrecht nach der reformierten EuInsVO

Volume 422
2019. XXIV, 484 pages.

ISBN 9783161575877
sewn paper 84,00 €

ISBN 9783161575884
eBook PDF 84,00 €

The provisions on insolvency proceedings for members of a group of companies are a novelty in the reformed European Insolvency Regulation. The provisions are supposed to ensure the efficient administration of such proceedings. How these amendments actually measure up is examined and critically evaluated here in Thomas Himmer's study.

Brüggemann, Niklas

Die Anerkennung prorogationswidriger Urteile im Europäischen und US-amerikanischen Zivilprozessrecht

Volume 421
2019. XXV, 334 pages.

ISBN 9783161566837
sewn paper 64,00 €

ISBN 9783161566844
eBook PDF 64,00 €

Forum selection clauses are integral to achieving jurisdictional legal certainty within the EU. At the same time, judgments delivered by a forum derogatum enjoy recognition and enforcement in all member states. Niklas Brüggemann analyses the role of such clauses in the areas of jurisdiction, lis pendens as well as recognition and enforcement from a systematic, political, and comparative perspective. He proposes a new ground for refusal of recognition where a judgment is rendered in violation of a forum selection clause.

Aliyev, Azar

Konzessionen in Russland und Kasachstan

Vertragsrechtliche Aspekte

Volume 420
2019. XXX, 389 pages.

ISBN 9783161546662
sewn paper 69,00 €

ISBN 9783161547751
eBook PDF 69,00 €

Many states use public-private partnership instruments to attract funding for improving public service infrastructure. An example of such an instrument is concessions. Commonly used in Russia and Kazakhstan, these are contracts with private investors for the construction, modernisation, operation and re-transfer of public infrastructure objects. Legal discussion on PPPs and concessions in Russia and Kazakhstan is focussed on contract law, although the administrative law dimension is omnipresent. The attempts of these two transition states to establish an »island of stability« for complex, long-term projects in a rather unstable legal environment are examined and compared in this book. As a result, fundamental issues of civil, private and public administrative law are taken up and analysed.



Gröning, Jonas Christian

Gesellschafter- und Geschäftsleiterhaftung im internationalen Zivilverfahrensrecht

Zur internationalen Zuständigkeit nach Brüssel Ia-VO und EuInsVO

Volume 419
2019. XX, 247 pages.

ISBN 9783161568442
sewn paper 64,00 €

ISBN 9783161568459
eBook PDF 64,00 €

What are the norms for international jurisdiction when it comes to legal actions against shareholders and managing directors? With an eye on claims made under German law, Jonas Christian Gröning deals with this question in the field of the European Union's international civil procedure law.

Zander, Ines

Irrtumsanfechtung und Sachmängelgewährleistung beim Kauf von Kunstwerken

Ein Rechtsvergleich des deutschen, französischen und englischen Rechts

Volume 418
2019. XXIV, 264 pages.

ISBN 9783161557989
sewn paper 64,00 €

ISBN 9783161557996
eBook PDF 64,00 €

Record sums at international auctions on the one hand and scandals over fakes on the other – these are two extremes of art-world trading brought about by uncertainty over the authenticity of works of art and alterations to attributions. Ines Zander's comparative study throws light on the legal remedies available to buyers and sellers of works of art that turn out to be forgeries or whose authenticity is dubious.

Gößling, Sebastian

Europäisches Kollisionsrecht und internationale Schiedsgerichtsbarkeit

Die Bedeutung der Rom I-Verordnung bei der Bestimmung des anwendbaren materiellen Rechts durch internationale Handelsschiedsgerichte mit Sitz in der EU

Volume 417
2019. XX, 250 pages.

ISBN 9783161558122
sewn paper 64,00 €

ISBN 9783161558139
eBook PDF 64,00 €

International commercial arbitration is regularly the subject of controversial debates. In this context Sebastian Gößling analyses to what extent arbitral tribunals fall into the scope of application of the European conflict of laws rules as well as the consequences this would have for the legal practice and a further integration of international commercial arbitration within the European Union.

Centner, Björn

Iura novit curia in internationalen Schiedsverfahren

Eine historisch-rechtsvergleichende Studie zu den Grundlagen der Rechtsermittlung

Volume 416
2019. XXII, 391 pages.

ISBN 9783161568329
sewn paper 69,00 €

ISBN 9783161568336
eBook PDF 69,00 €

»Iura novit curia« is not only a rhyme, but also a mystery. Its significance and scope are an unsolved problem in international arbitration proceedings. This makes it necessary to deal with the historical and comparative foundations of determining the content of the applicable law.



Schirmer, Fabian Laurent

Die Selbstbindung des Erblassers im deutschen und französischen Recht

Volume 415
2019. XIV, 263 pages.

ISBN 9783161566233
sewn paper 59,00 €

ISBN 9783161566240
eBook PDF 59,00 €

From the *donatio mortis causa* of Roman law to the codifications of the nineteenth and twentieth centuries, the self-commitment of the testator is still a challenge for legal systems in continental Europe, particularly because the testator is bound by legal transactions, whether dead or alive. Fabian Laurent Schirmer investigates parallels in the private autonomy of German and French inheritance law and finds some remarkable similarities.

Jarass, Insa Stephanie

Privates Einheitsrecht

Volume 414
2019. XXII, 290 pages.

ISBN 9783161561313
sewn paper 59,00 €

ISBN 9783161561320
eBook PDF 59,00 €

The national fragmentation of commercial law has always been perceived as a barrier to international trade. Besides attempts to create legal unity through international treaties, private actors, such as the International Chamber of Commerce in Paris, have also committed themselves to the goal of legal unification in the field of international commercial law by creating their own non-state rules and regulations. The classification of non-state rules and regulations presents challenges for our understanding of legal doctrine and legal sources. This work attempts to establish the concept of the »private uniform law«, based on the functional conditions of such law, as an independent dogmatic category that links certain facts of a case with specific legal consequences. The basis for this is an empirical analysis of English and German case law on selected non-state rules and regulations, namely the Incoterms, the Uniform Customs and Practice for Documentary Credits (both issued by the International Chamber of Commerce) and the Principles of International Commercial Contracts by UNIDROIT.

The Max Planck Society awarded the thesis the Otto Hahn Medal 2017.

Issad, Andrea

Islamisch inspirierte Testamente

Ein Beitrag zur Inhaltskontrolle von Verfügungen von Todes wegen

Volume 413
2019. XV, 140 pages.

ISBN 9783161558009
sewn paper 49,00 €

ISBN 9783161558016
eBook PDF 49,00 €

How should German civil law deal with a will written by a Muslim testator which follows the traditional sharia law of inheritance? Andrea Issad's study examines the scope of testation and its limits under German law, contributing both to current discussions on the treatment of Islam and Muslims in Germany as well as personal autonomy in cases of death and the balance of freedom and equality in private law generally.

Brosch, Marlene

Rechtswahl und Gerichtsstandsvereinbarung im internationalen Familien- und Erbrecht der EU

Volume 412
2019. XXI, 288 pages.

ISBN 9783161562730
sewn paper 59,00 €

ISBN 9783161562747
eBook PDF 59,00 €

To what extent are parties free to choose which law is applicable and which court competent under the EU's regulations on international family and succession law? Marlene Brosch undertakes a comprehensive analysis of the options available, discussing reform proposals that could lead to a more coherent system.

Kämper, Lukas

Forderungsbegriff und Zession

Geschichte und Dogmatik der Abtretung in Frankreich und Deutschland



Volume 411
2019. XXI, 272 pages.

ISBN 9783161561771
sewn paper 59,00 €
ISBN 9783161561788
eBook PDF 59,00 €

What principles should a modern law of assignment be based on? Lukas Kämper studies how the concept of the claim and the principles governing the law of assignment are doctrinally linked from a historical and comparative perspective in order to subject today's French and German law to a critical analysis.

Beil, Lydia

Personale Differenzierung im Kaufrecht

Rechtsvergleichende Studie unter Einbeziehung deutscher und französischer Regelungen und internationaler Regelwerke (CISG, UNIDROIT PICC, CESL, CFR)

Volume 410
2018. XXVII, 337 pages.

ISBN 9783161561290
sewn paper 64,00 €
ISBN 9783161561306
eBook PDF 64,00 €

Is a special sales law needed for consumer or business contracts? The current legal situation is paradoxical and incomprehensible for users. Lydia Beil compares German, French, and international rules, applying the economic analysis of law approach to show which personal distinctions urgently need to be removed. By so doing, she also contributes to the discussion about a future harmonised European sales law instrument.

Rosentritt, Sebastian

Die Gefahrtragung im europäischen und internationalen Kaufrecht

CISG, INCO-Terms, Vorschlag für ein Gemeinsames Europäisches Kaufrecht, Verbraucherrechterichtlinie und deutsches Recht in vergleichender Perspektive

Volume 409
2018. XXIII, 343 pages.

ISBN 9783161558023
sewn paper 69,00 €
ISBN 9783161558030
eBook PDF 69,00 €

Who bears the economic risk of accidental loss or damage of goods once a sales contract has been concluded? Can the buyer still demand delivery and must they pay the purchase price? Sebastian Rosentritt pursues these classic law of obligations questions from a comparative perspective and by taking international trade practice into consideration.

Schwemmer, Anja Sophia

Anknüpfungsprinzipien im Europäischen Kollisionsrecht

Integrationspolitische Zielsetzungen und das Prinzip der engsten Verbindung

Volume 408
2018. XXII, 252 pages.

ISBN 9783161558870
sewn paper 59,00 €
ISBN 9783161558887
eBook PDF 59,00 €

The harmonisation of European conflict of laws legislation calls for a new approach in choosing connecting factors. Anja Sophia Schwemmer investigates how far the classic principle of closest connection is being superimposed or even crowded out by integration policy objectives in the course of creating a European international private law.

Seeger, Sebastian

Erbverzichte im neuen europäischen Kollisionsrecht

Unter besonderer Berücksichtigung rechtsvergleichender Bezüge und der Problematik des Statutenwechsels

Volume 407
2018. XXIV, 254 pages.

ISBN 9783161558382
sewn paper 59,00 €
ISBN 9783161558399
eBook PDF 59,00 €

Succession renunciation agreements raise numerous difficulties in private international law and require re-systematization following the implementation of the European Succession Regulation. Sebastian Seeger takes on this task by examining in particular change of statute difficulties with the help of classical and modern methods of international private law.

Keinert, Patrick

Vertragsbeendigung in der Insolvenz

Insolvenzbezogene Lösungsklauseln im Rechtsvergleich

Volume 406
2018. XXVIII, 434 pages.

ISBN 9783161561948
sewn paper 74,00 €
ISBN 9783161561955
eBook PDF 74,00 €

Patrick Keinert deals with the validity of ipso facto clauses in executory contracts in the case of insolvency. The results of a comparative analysis of the legal situation in Germany, Switzerland, Austria, France, the USA, and England, are used to develop a practical solution.

Neu, Leonie-Pascale

Der Trust im italienischen Recht

Eine rechtsvergleichende Untersuchung vor dem Hintergrund des Haager Trust-Übereinkommens

Volume 405
2018. XXVIII, 384 pages.

ISBN 9783161557637
sewn paper 74,00 €
ISBN 9783161557644
eBook PDF 74,00 €

Trusts are an ancient legal construct that were used as long ago as the crusades by knights to organise their financial affairs and secure provision for their families. To this day, the trust has retained (and further expanded) its key position in common law systems. In civil law jurisdictions on the other hand, material reservations still abound as to the use of trusts. By taking Italian law as an example, Leonie Neu shows that this doubt is unjustified and that trusts, with minor adaptations, can play a meaningful role.

Gerdemann, Simon

Transatlantic Whistleblowing

Rechtliche Entwicklung, Funktionsweise und Status quo des Whistleblowings in den USA und seine Bedeutung für Deutschland

Volume 404
2018. XVIII, 590 pages.

ISBN 9783161559167
sewn paper 89,00 €
ISBN 9783161559174
eBook PDF 89,00 €

Simon Gerdemann explores the origins, characteristics and ramifications of whistleblowing laws in the United States, analyzes the consequences the current rise and adoption of whistleblowing laws has on European countries like Germany and shows how learning from past experiences in the United States could shape the whistleblowing laws of tomorrow.



Wiegandt, Dirk

Bindungswirkung kartellbehördlicher Entscheidungen im Zivilprozess

Zur Verzahnung von Kartellverwaltungs- und Kartellprivatrecht

Volume 403
2018. XX, 332 pages.

ISBN 9783161559181
sewn paper 64,00 €

ISBN 9783161559198
eBook PDF 64,00 €

The binding effect of decisions adopted by national competition authorities is a key instrument for facilitating antitrust damages actions. Dirk Wiegandt examines the instrument and demonstrates that it not only interlinks private with public enforcement; conversely, it also impacts on public enforcement of competition law.

Mayer, Wendelin

Sprache und Recht bei der Europäischen Aktiengesellschaft

Volume 402
2018. XXV, 432 pages.

ISBN 9783161557941
sewn paper 79,00 €

ISBN 9783161557958
eBook PDF 79,00 €

Legal terms in European legal texts – such as the Societas Europaea regulation – are often (unintentionally) interpreted by drawing on national legal notions. Wendelin Mayer's comparative study aims at breaking this seemingly bewitching spell of linguistic confusion and establishing a common European starting point for autonomous interpretation.

Repasi, René

Wirkungsweise des unionsrechtlichen Anwendungsvorrangs im autonomen IPR

Volume 401
2018. XXVIII, 538 pages.

ISBN 9783161553066
sewn paper 84,00 €

ISBN 9783161553073
eBook PDF 84,00 €

Within the scope of EU law, the application of national conflict-of-laws rules to cross-border situations can lead to clashes with EU rights to free movement. The EU's principle of supremacy provides a solution to this. René Repasi examines its mechanisms and draws conclusions on how autonomous conflict-of-laws rules of member states are influenced by them.

Peter, Matthias

Zivilprozessuale Gruppenvergleichsverfahren

Einvernehmliche Streitbeilegung im kollektiven Rechtsschutz

Volume 400
2018. XXV, 260 pages.

ISBN 9783161559358
sewn paper 69,00 €

ISBN 9783161559365
eBook PDF

The debate on class actions and collective redress is focusing more and more on collective settlement procedures. Matthias Peter examines the functioning and efficacy of selected collective settlement procedures from a comparative perspective, and discusses several key problems of this procedural approach.



Bueren, Eckart

Der Rechnungsschock: Hinweispflichten im Bürgerlichen Recht und ihre Grenzen

Rechtsdogmatik, Rechtsvergleichung, Rechtsökonomik

Volume 399
2018. XV, 182 pages.

ISBN 9783161560545
sewn paper 59,00 €
ISBN 9783161560552
eBook PDF 59,00 €

The rapid advances in mobile communication and mobile internet services often lead to users no longer being able to control the technology – or their tariffs – as desired. The result can be a »bill shock«, the receipt of a bill for an unexpectedly large amount. Eckart Bueren systematizes the relevant German law and analyses the legal system's response particularly in the field of civil law. His inquiry details the approach of the German Federal Court, critically examining the case law not only from a doctrinal perspective but also scrutinizing it under both a law-and-economics and a comparative lens (taking Austria, France, Switzerland, and the USA as examples). Finally, he points to alternative solutions in German civil law.

Kleweta, Fritz

Die Sicherungsfunktion der Floating Charge in Deutschland

Volume 398
2018. XXIII, 257 pages.

ISBN 9783161555244
sewn paper 59,00 €
ISBN 9783161555329
eBook PDF 59,00 €

In German legal literature, the floating charge has been discussed mainly with regard to its all-assets-encompassing scope. Its actual value for a secured party – the right to appoint an administrator or administrative receiver – has rarely been discussed. Fritz Kleweta shows how the concept could be implemented in Germany.

Thürk, Sophie Charlotte

Belegenheitsgerichtsstände

Volume 397
2018. XX, 322 pages.

ISBN 9783161557057
sewn paper 64,00 €
ISBN 9783161557064
eBook PDF 64,00 €

The author deals with jurisdiction in rem in the legal systems of Germany, the USA and Switzerland. With regard to a supranational convention on jurisdiction, the question of whether and under which conditions jurisdiction in rem ensures appropriate jurisdiction is considered.

Junge, Wolfgang

Die Kognitionsbefugnis über Zurückbehaltungsrechte im internationalen Zivilverfahrensrecht

Volume 396
2018. XXII, 217 pages.

ISBN 9783161546846
sewn paper 59,00 €
ISBN 9783161549465
eBook PDF 59,00 €

Can a defendant successfully invoke a right of retention in civil proceedings if the court lacks international jurisdiction for the counterclaim on which the right of retention is based? Wolfgang Junge challenges the prevailing view and develops an independent model to determine the admissibility of rights of retention in cross-border disputes.

von Bary, Christiane

Gerichtsstands- und Schiedsvereinbarungen im internationalen Erbrecht



Volume 395
2018. XXII, 386 pages.

ISBN 9783161557965
sewn paper 74,00 €

ISBN 9783161557972
eBook PDF 74,00 €

In which way can the parties – based on their private autonomy – determine who is competent to settle their international succession dispute? Christiane von Bary analyses the provision on choice-of-court agreements in the European regulation on succession, comprehensively covers the specific characteristics of arbitration agreements and unilaterally binding arbitration clauses and offers suggestions for their practical use.

Kern, Carsten

Schiedsgericht und Generalklausel

Zur Konkretisierung des Gebots des fair and equitable treatment in der internationalen
Investitionsschiedsgerichtsbarkeit

Volume 394
2017. XXII, 443 pages.

ISBN 9783161552182
sewn paper 69,00 €

ISBN 9783161554445
eBook PDF 69,00 €

The obligation to accord fair and equitable treatment to foreign investments is central to international investment law. It plays a central role in most investor-State arbitrations. Carsten Kern examines the content of the fair and equitable treatment standard and provides a methodological framework for its concretisation.

Flohr, Martin

Rechtsdogmatik in England

In recent years, new strands of thinking have emerged in English private law scholarship which seek to reveal an intelligible order in the law and to revise the boundaries of accepted legal categories.

Volume 393
2017. XIII, 342 pages.

ISBN 9783161552809
sewn paper 59,00 €

ISBN 9783161552816
eBook PDF 59,00 €

Wiedemann, Denise

Vollstreckbarkeit

Entwicklung, Wirkungserstreckung und Qualifikation im System Brüssel Ia

Volume 392
2017. XXVII, 348 pages.

ISBN 9783161554803
sewn paper 64,00 €

ISBN 9783161554810
eBook PDF 64,00 €

The recast Brussels Regulation sets a milestone in cross-border enforcement of civil judgments within the EU because it abolishes the intermediate exequatur procedure. The direct cross-border enforcement brings the law of the state of origin, that of the enforcing state, and European Union law together. Denise Wiedemann explores which law applies to the varying issues that arise during the enforcement procedure.

Spiegel, Torsten

Independent Directors in Japan

Die japanische Corporate Governance und effektives Monitoring aus rechtsvergleichender Sicht



Volume 391
2017. XXV, 305 pages.

ISBN 9783161556906
sewn paper 64,00 €

ISBN 9783161556913
eBook PDF 64,00 €

Japanese stock companies have so far largely been isolated from outside influence. So how does the introduced independent director mechanism fit into the country's closed system of corporate governance? Torsten Spiegel offers a comparative analysis of the situation, taking into account both the current state of implementation and the mechanism's institutional framework.

Göckler, Till

Angstfaktor und unlautere Handelspraktiken

Eine Untersuchung anlässlich des Grünbuchs der Europäischen Kommission über unlautere Handelspraktiken in der b2b-Lieferkette

Volume 390
2017. XXII, 371 pages.

ISBN 9783161552038
sewn paper 64,00 €

ISBN 9783161552939
eBook PDF 64,00 €

Till Göckler illustrates the regulatory framework in Germany that aims to protect small and medium-sized enterprises (SME) from unfair trading practices imposed by contracting parties. He shows that, despite SME-supporting regulations, there remains room for improvement in the legal enforcement of that legislation.

Kühn, Franziska

PartGmbH und UK-LLP als hybride Gesellschaftsformen

Eine rechtsvergleichende Würdigung der Haftungsrisiken im Innen- und Außenverhältnis, des Gründungs- und Umstrukturierungsaufwands sowie der steuerlichen Belastung im Inland

Volume 389
2017. XXV, 327 pages.

ISBN 9783161553516
sewn paper 59,00 €

ISBN 9783161553523
eBook PDF 59,00 €

Current competition in the choice of legal forms within the European Union challenges the national legislator to meet the practical demands for appropriate legal vehicles. Does the German PartGmbH offer the self-employed a model able to successfully compete with the UK LLP?

Weber, Philipp

Gleichgeschlechtliche Elternschaft im Internationalen Privatrecht

In an increasing number of foreign jurisdictions, same-sex parenthood is possible through the recognition of a second woman besides the birth mother or through surrogacy arrangements. Philipp Weber examines the legal consequences such parenthood models have in Germany.

Volume 388
2017. XX, 256 pages.

ISBN 9783161555282
sewn paper 69,00 €

ISBN 9783161555299
eBook PDF 69,00 €

Schröder, Martin

Der Unternehmerregress beim Verbrauchsgüterkauf im Falle von grenzüberschreitenden Handelskäufen

Eine rechtsvergleichende und kollisionsrechtliche Betrachtung unter Berücksichtigung des deutschen und österreichischen Rechts sowie des UN-Kaufrechts, des DCFR und des Vorschlags für ein GEK

Volume 387
2017. XXII, 347 pages.

ISBN 9783161544170
sewn paper 79,00 €

ISBN 9783161544187
eBook PDF 79,00 €

Everyday business in today's economic marketplace would be unimaginable without the supply chains linking producers, distributors and final sellers. But there is potential legal risk at each stage, particularly when the chain's last link has sold something to a consumer. Martin Schröder examines the final suppliers' right of redress in German and Austrian law, looking at how EU and UN directives deal with it and what solutions international private law has to offer.

Walter, Mareike

Die Preisbindung der zweiten Hand

Eine Neubewertung im Licht der ökonomischen Analyse und des US-amerikanischen, europäischen, deutschen und schweizerischen Kartellrechts

Volume 386
2017. XXV, 399 pages.

ISBN 9783161553301
sewn paper 69,00 €

ISBN 9783161553318
eBook PDF 69,00 €

Retracing legal developments after the U.S. Supreme Court's decision in Leegin of 2007, Mareike Walter examines the approach to resale price maintenance within the U.S. and European frameworks. She especially evaluates contemporary economic analysis and implications of the Internet to pursue a fresh assessment of antitrust policy towards vertical price fixing and related practices.

Segger, Sören

Der Amicus Curiae im Internationalen Wirtschaftsrecht

Eine rechtsvergleichende Untersuchung des U.S.-amerikanischen, deutschen, europäischen, Welthandels- und Investitionsschutzrechts sowie der Principles of Transnational Civil Procedure

Volume 385
2017. XXX, 584 pages.

ISBN 9783161550775
sewn paper 89,00 €

ISBN 9783161551628
eBook PDF 89,00 €

The legal entity of amicus curiae allows information to be presented in court by an impartial person without party affiliation. Questions of procedure arising from this chiefly American practice are the special focus of Sören Segger's broad-based comparative analysis, which also considers an incorporation of the amicus in German and European laws.

Woyciechowski, Sarah

Haftungsgrenzen im französischen Deliktsrecht

Zur Reichweite der deliktischen Generalklausel in Art. 1382f. Code civil



Volume 384
2017. XXII, 382 pages.

ISBN 9783161552670
sewn paper 69,00 €

ISBN 9783161552687
eBook PDF 69,00 €

The question of adequately formulating the scope of protection is one of the unsolved fundamental problems of European tort law. The German model of the »three small clauses« stands in contrast to the general clause of the French Civil Code's Art. 1382, which does not require rights to be infringed or property to be damaged. Was the open formulation of the protection a defining characteristic of French law right from the start, or was it rather a result of the way the general clause was handled?

Vedie, Ina

Arthur T. von Mehren und das internationale Zivilverfahrensrecht im transatlantischen Dialog

Volume 383
2017. XXVI, 417 pages.

ISBN 9783161552021
sewn paper 64,00 €

ISBN 9783161553158
eBook PDF 64,00 €

Ina Vedie brings the teachings of the American legal scholar Arthur Taylor von Mehren (1922–2006) to the centre of transatlantic comparative law's attention in this volume. She investigates questions of jurisdictional responsibility, cross-border process coordination, and judgment recognition. The influence von Mehren had on the work of the Hague Conference for International Private Law is analysed in the light of the current Judgements Project.

Rentsch, Bettina

Der gewöhnliche Aufenthalt im System des Europäischen Kollisionsrechts

Volume 382
2017. XXXII, 465 pages.

ISBN 9783161551727
sewn paper 74,00 €

ISBN 9783161552243
eBook PDF 74,00 €

The importance of habitual residence in European conflict of laws has increased, as have controversies on its use. Bettina Rentsch re-frames the ongoing academic debate with a focus on the relationship between habitual residence and party autonomy.

Dedual, Alessia

Geltungserhaltende Reduktion

Richterliche Ersatzregelbildung im schweizerischen Vertragsrecht

Volume 381
2017. XX, 313 pages.

ISBN 9783161552755
sewn paper 59,00 €

ISBN 9783161552762
eBook PDF 59,00 €

Alessia Dedual investigates the law of so-called partial retention, which describes the reduction of illegal contract provisions to a legally-permitted core. Judicial interventions remedying illegal clauses are thus the focal point of this important study, and are approached through a combination of economic theory and dogmatic analyses. The resulting new and innovative solutions proposed could have a lasting influence on continental European, and particularly Swiss, jurisdiction in the field.

Wojtas, Małgorzata

Die Haftung für culpa in contrahendo in Polen und in Deutschland

Eine Analyse im Kontext des europäischen und internationalen Privatrechts



Volume 380
2017. XXIV, 320 pages.

ISBN 9783161551741
sewn paper 59,00 €

ISBN 9783161553738
eBook PDF 59,00 €

The author dissects the legal differences between the German and Polish legal regulation of precontractual liability (*culpa in contrahendo*) and examines possible solutions for avoiding the negative consequences of the established national regulatory differences in cross-border business transactions.

Horst, Sophie-Isabelle

Das Spannungsverhältnis zwischen Schiedsrichter und Parteivertreter in der internationalen Schiedsgerichtsbarkeit

Insbesondere unter den IBA Guidelines on Party Representation in International Arbitration

Volume 379
2017. XXII, 299 pages.

ISBN 9783161551857
sewn paper 69,00 €

ISBN 9783161553141
eBook PDF 69,00 €

Arbitrators and counsel both play a crucial role in international arbitration. Sophie-Isabelle Horst examines conflicts of interest between them with regard to the challenge of arbitrators, the parties' responsibility to avoid conflicts and counsel disqualification.

Päßler, Jacqueline

Das Gebot zur Führung des Rechtsformzusatzes im Kapitalgesellschaftsrecht

Verstoßfolgen und kollisionsrechtliche Anknüpfung

Volume 378
2017. XXV, 192 pages.

ISBN 9783161551222
sewn paper 59,00 €

ISBN 9783161551642
eBook PDF 59,00 €

In her two-step analysis, Jacqueline Päßler first assesses how German private law reacts to legal form deceptions when limited companies are set up, and then goes on to examine whether these mechanisms can be applied to foreign – and especially European – companies under conflict of laws rules.

Sammeck, Sarah

Die internationale Produkthaftung nach Inkrafttreten der Rom II-VO im Vergleich zu der Rechtslage in den USA

Volume 377
2017. XXIII, 218 pages.

ISBN 9783161544620
sewn paper 64,00 €

ISBN 9783161545740
eBook PDF 64,00 €

In the field of private international law products, liability conflicts are difficult to solve. In cross-border product liability cases, the question arises whether preference should be given to particular connecting factors such as the place of action or the place of injury, or whether connecting factors should be combined. In 2009 the EU legislature adopted a specific rule for cross-border product liability cases to unify the choice-of-law rules of the member states. Article 5 of the Rome II Regulation has often been criticized for its complexity. Sarah Sammeck takes a closer look at Article 5 and compares it to the conflict of law approaches followed in New York and Louisiana. She examines whether the strict hierarchical order of connecting factors in Article 5 or the more flexible conflict of law rules in New York and Louisiana provide for the right balance between legal certainty and predictability on the one hand, and the need for flexibility and equity on the other. The author favors a more flexible approach and draws the conclusion that without compromising on predictability a conflict rule can be designed, which allows for a combination of the relevant connecting factors instead of forcing them into a specific hierarchical corset.

Wäschle, Jonas

Die internationale Zuständigkeit für Schadensersatzklagen gegen Weltkartelle

Koordination der Gerichtspflichtigkeit in Europa und den USA



Volume 376
2017. XX, 268 pages.

ISBN 9783161550171
sewn paper 69,00 €

ISBN 9783161552496
eBook PDF 69,00 €

To which courts can parties wronged by globally active cartels bring their claims for compensation? Jonas Wäschle examines this topical question with reference to German and US laws, and in addition explores if it might be possible to coordinate the exercising of jurisdiction in the two systems.

Richter, Thomas

Parteiautonomie im Internationalen Immaterialgüterrecht

Eine rechtsvergleichende Untersuchung de lege lata und de lege ferenda

Volume 375
2017. XXXIV, 430 pages.

ISBN 9783161549816
sewn paper 79,00 €

ISBN 9783161550522
eBook PDF 79,00 €

To what extent can parties choose the applicable law relating to intellectual property rights such as trademarks, patents and copyrights? Thomas Richter analyzes the admissibility and the scope of a choice of law with regard to intellectual property rights infringements and contracts under the international private law rules of the EU, the US and Switzerland.

Hoischen, Nicola

Die Vermögensauseinandersetzung nichtehelicher Lebensgemeinschaften in Deutschland und Frankreich

Eine rechtsvergleichende Analyse mit abgrenzender Betrachtung der Vermögensauseinandersetzung von Ehen und registrierten Partnerschaften

Volume 374
2017. XX, 323 pages.

ISBN 9783161541919
sewn paper 64,00 €

ISBN 9783161541926
eBook PDF 64,00 €

Nicola Hoischen compares what happens to property when a non-marital relationship ends in Germany and France. She also examines whether a registered partnership similar to the increasingly popular French »Pacte civil de Solidarité« should be introduced in Germany.

Antomo, Jennifer

Schadensersatz wegen der Verletzung einer internationalen Gerichtsstandsvereinbarung?

Eine Untersuchung von Schadensersatz- und anderen materiellrechtlichen Erstattungsansprüchen wegen der Missachtung einer internationalen Gerichtsstandsvereinbarung

Volume 373
2017. XXXVI, 719 pages.

ISBN 9783161548864
sewn paper 99,00 €

ISBN 9783161549137
eBook PDF 99,00 €

Parties to international commercial contracts often agree on the exclusive jurisdiction of a certain state's courts. However, such international choice of court agreements are not always respected by the parties and neither are they binding in some jurisdictions. Remedies, such as anti-suit injunctions, do not always protect the party relying on the agreement from the consequences of being sued in a derogated forum. Jennifer Antomo examines if it would be possible to claim damages for the breach of an international choice of court agreement. The author analyses relevant foreign case law, and discusses the topic's dogmatic and political aspects from the German courts' perspective. She then goes on to explore the differences arising from the application of the Hague Convention on Choice of Court Agreements and the revised Brussels I Regulation.

Zwirlein, Susanne

Versprechen und Zufall

Eine historisch-vergleichende Studie zur Gefahrtragung beim Kauf beweglicher Sachen im englischen und deutschen Recht

Volume 372
2017. XIII, 331 pages.

ISBN 9783161551369
sewn paper 69,00 €
ISBN 9783161552380
eBook PDF 69,00 €

What happens to a sales contract when the goods for sale perish before the performance is completed? This question raises the fundamental problem of the binding effect of promises. The study offers an analysis of the answers to this problem in English and German law from the Middle Ages until the present day.

Leibkühler, Peter

Die Parteiautonomie im chinesischen internationalen Privatrecht

Das Recht der Volksrepublik China im Lichte eines Vergleichs mit deutschem und europäischem Kollisionsrecht

Volume 371
2017. XXIV, 292 pages.

ISBN 9783161549670
sewn paper 64,00 €
ISBN 9783161549687
eBook PDF 64,00 €

Every private international dispute poses the important question of which law to apply. In 2010, the People's Republic of China enacted legislation allowing parties involved the freedom to choose for themselves. Peter Leibkühler offers an analysis of this development in statutory law, literature and state jurisdiction.

Geuenich, Berit

Die Bestimmung des anwendbaren Rechts im Falle der internationalprivatrechtlichen Verweisung auf einen territorialen Mehrrechtsstaat

Rechtsvergleich, Haager Übereinkommen, Art. 4 Abs. 3 EGBGB, Europäisches IPR

Volume 370
2017. XXXIV, 487 pages.

ISBN 9783161548536
sewn paper 84,00 €
ISBN 9783161548543
eBook PDF 84,00 €

In the case of a legal dispute with an international dimension and a link to a territorial multi-unit state, how can a single territorial unit be determined whose law is to be applied? By considering the historical origins of this issue in jurisprudence and examining the development of provisions in the Hague Conventions, the national regulation of Art. 4 para. 3 of the Introductory Act to the German Civil Code as well as the corresponding European regulations, the author draws up a modern solution to the problem.

Rußmann, Dominik

Erwerb mit Mitteln der Erbschaft

Die rechtsgeschäftliche dingliche Surrogation gemäß §§ 2019 I, 2111 I 1 BGB vor dem Hintergrund des »tracing« im englischen Recht



Volume 369
2017. XX, 377 pages.

ISBN 9783161549397
sewn paper 69,00 €

ISBN 9783161549472
eBook PDF 69,00 €

A functioning law of real subrogation has to be able to identify substitute assets even under complex conditions. With the help of English tracing law, Dominik Rußmann develops identification rules for ss. 2019 (1), 2111 (1) of the German Civil Code. The author focuses on issues of property and succession law and how these are tied up with insolvency law. He offers new solutions for a host of problematic and disputed situations.

Moeller, Axel

Alternative Initial Public Offering Models

The Law and Economics Pertaining of Shell Company Listings on German Capital Markets

Volume 368
2016. XIX, 112 pages.

ISBN 9783161538940
sewn paper 44,00 €

ISBN 9783161540004
eBook PDF 44,00 €

The continuous search for improved methods of public equity financing has resulted in the derivation of alternative models for listing companies on stock exchanges through so-called shell companies. Since such an entity has no operations of its own, its sole purpose is to find an operating company it can ultimately be merged with through the use of proceeds acquired from the initial shell listing. Axel Moeller seeks to answer the questions pertaining to the practical implementation of such alternative listing models in Germany from a law and economics perspective. In light of the fact that a legal framework with regard to shell listings does not exist, the underlying legal analysis is based on the accumulation of general principles derived from German business and capital markets law. From an economic and financial perspective, the ensuing analysis demonstrates the potential efficiency gains of a shell listing for small and medium-sized German enterprises.

Seibold, Stefanie

Die Haftung von Ratingagenturen nach deutschem, französischem, englischem und europäischem Recht

Ratings significantly determine finance terms for issuers and conditions for investors in capital markets. Should these prove incorrect, those involved can suffer significant financial damage. Stefanie Seibold addresses the question of if and, if applicable, under which circumstances credit rating agencies can be held liable.

Volume 367
2016. XXI, 240 pages.

ISBN 9783161545856
sewn paper 64,00 €

ISBN 9783161545863
eBook PDF 64,00 €

Chambellan, Agnieszka

Europäisierung des Reisevertragsrechts

Die Mängelrechte des Reisenden im deutsch-polnischen Rechtsvergleich

International package tours are part and parcel of this mobile day and age, and both tour operator and customer ought to know their contractual rights. But despite a common European directive on package travel, the neighbouring lands of Germany and Poland are miles apart in this respect. Agnieszka Chambellan explores how the two legal regimes measure up with the directive.

Volume 366
2016. XX, 216 pages.

ISBN 9783161540431
sewn paper 59,00 €

ISBN 9783161540592
eBook PDF 59,00 €

Laugwitz, Helena Charlotte

Die Anerkennung und Vollstreckung drittstaatlicher Entscheidungen in Zivil- und Handelssachen

Rechtsvergleichende Betrachtung und europäische Regelungsoptionen



Volume 365
2016. XXV, 531 pages.

ISBN 9783161544095
sewn paper 89,00 €

ISBN 9783161544101
eBook PDF 89,00 €

While the recognition and enforcement of European judgments were unified by the Brussels I Regulation and the Lugano Convention, the recognition of third states' judgments is still subject to a complex system of national laws and international conventions. Against this backdrop, Helena Laugwitz examines the systems established by German, English and French law and develops approaches for future provisions on a European level.

Kummer, Maximilian

Sprachprobleme und Sprachrisiken

Lösungsansätze des Draft Common Frame of Reference

Volume 364
2016. XX, 285 pages.

ISBN 9783161546372
sewn paper 69,00 €

ISBN 9783161546471
eBook PDF 69,00 €

Over the past few years, intensive efforts have been made to unify European private law. One example of this is the Draft Common Frame of Reference. Maximilian Kummer asks whether this draft sufficiently considers the heightened risk of misunderstandings in transnational and cross-lingual contractual relations in particular, and shows the extreme importance of communication while drafting and closing contracts.

Panych, Nazar

Schadensversicherung im ukrainischen Recht

Volume 363
2016. XXVII, 354 pages.

ISBN 9783161546389
sewn paper 69,00 €

ISBN 9783161547546
eBook PDF 69,00 €

Private insurance, including damage policies, is a growing and important part of the Ukrainian economy. However, interested scholars and practitioners are confronted by a special law standardised in three statute books and in need of reform. Nazar Panych systematically analyses Ukrainian indemnity insurance principles and offers theoretical and practical reform suggestions.

Schellerer, Juliane

Gutgläubiger Erwerb und Ersitzung von Kunstgegenständen

BGB, Kunsthandel, Europäisches Privatrecht

Volume 362
2016. XVIII, 198 pages.

ISBN 9783161542169
sewn paper 59,00 €

ISBN 9783161545177
eBook PDF 59,00 €

How much diligence is required when acquiring works of fine art and cultural objects? Juliane Schellerer explores the question of acquisitions made in good faith from a non-entitled seller, taking into account art trade practice and cases dealt with as well as the suggestions of the Draft Common Frame of Reference for a European property law.

Rademacher, Lukas

Verkehrsschutz im englischen Privatrecht

Zur Beständigkeit von Erwerbsvorgängen nach englischem Sachen-, Stellvertretungs-, Abtretungs- und Bereicherungsrecht



Volume 361
2016. XVI, 286 pages.

ISBN 9783161548659
sewn paper 69,00 €

ISBN 9783161548802
eBook PDF 69,00 €

The German laws of property, agency, assignment, and unjust enrichment rely to varying degrees on the principle of protecting commercial expectations. Lukas Rademacher examines the significance of the transferee's interests under English private law in this comparative study.

Mogendorf, Mathäus

Der strukturell unterlegene Unternehmer im Internationalen Privat- und Verfahrensrecht

Eine vergleichende Untersuchung des europäischen und US-amerikanischen Rechts

Volume 360
2016. XXIV, 403 pages.

ISBN 9783161545634
sewn paper 69,00 €

ISBN 9783161545894
eBook PDF 69,00 €

The author examines the growing trend in the United States and the European Union to protect small and medium-sized enterprises in B2B cross-border transactions, focusing on protective regulation in the jurisdictions' private international and procedural laws.

Thier, Markus

Das japanische Insiderrecht

For decades, insider trading regulations did not play a significant role in Japanese law with the result being that Japan for decades was deemed an insider's paradise. Only recently have such regulations gained practical importance and attention in both academic and professional legal circles. Markus Thier's study analyses the complex Japanese situation from a comparative perspective. At the same time insider trading regulations serve as an illustrative example of a legal transplant which for considerable time remained »dead law« in Japan. Only recently, against the backdrop of a changing context, the initially unsuccessful legal transplant gradually evolved into an effective Japanese insider regulation regime of its own.

Volume 359
2016. XVIII, 234 pages.

ISBN 9783161543036
sewn paper 59,00 €

ISBN 9783161543272
eBook PDF 59,00 €

Nietner, Sarah

Internationaler Entscheidungseinklang im europäischen Kollisionsrecht

What role does decisional harmony play in European private international law? Sarah Nietner evaluates the EU's regulations on renvoi, for states with more than one legal system, and on preliminary questions as well as overriding mandatory provisions. She concludes by making proposals for reform.

Volume 358
2016. XXVII, 366 pages.

ISBN 9783161543418
sewn paper 69,00 €

ISBN 9783161543425
eBook PDF 69,00 €

Lignier, Chloé

Corporate Governance in Deutschland und Frankreich

The current economic crisis means that the efficient leadership and monitoring of stock exchange listed corporations are at the centre of political and legal debates. Chloé Lignier investigates corporate governance systems and legal regulations in Germany and France as well as possible sanctions for corporations deviating from the principles of good leadership which are anchored in the corresponding national codes.

Volume 357
2016. XXVI, 326 pages.

ISBN 9783161545627
sewn paper 69,00 €

ISBN 9783161545948
eBook PDF 69,00 €

Wennekers, Jonathan

Piraterie in der Seeversicherung des Reeders

Volume 356
2016. XXI, 291 pages.

ISBN 9783161542657
sewn paper 64,00 €

ISBN 9783161543357
eBook PDF 64,00 €

This work is a study of the fundamental legal issues of sea piracy in marine insurance law. Jonathan Wennekers in particular examines the meaning of the term piracy in insurance clauses and offers solutions to the problem of whether ransom payments are covered by a shipowner's hull insurance.

Resch, André-Pierre

Sicherungsinstrumente beim Grundstückserwerb

Eine rechtsvergleichende Betrachtung der Rechte an Grundstücken, der Grundstücksregister und des Grunderwerbsverfahrens in Deutschland und den Vereinigten Staaten von Amerika

Volume 355
2016. XXIX, 498 pages.

ISBN 9783161540424
sewn paper 84,00 €

ISBN 9783161540639
eBook PDF 84,00 €

Whereas the German legal system requires the involvement of a notary for real estate conveyancing, American practice relies on the so-called title insurance. This study provides a functional comparison of both types of proceedings, concluding with an evaluation of their respective security levels.

Höhne, Michael

Das Widerrufsrecht bei Kaufverträgen im Spannungsverhältnis von Opportunismus und Effektivität

Die Rückabwicklung nach Widerruf unter besonderer Berücksichtigung der Verhaltensökonomik

Volume 354
2016. XXVII, 289 pages.

ISBN 9783161545115
sewn paper 64,00 €

ISBN 9783161545122
eBook PDF 64,00 €

Consumers can exploit their right to withdraw from sales contracts and precautionary measures have to be balanced out with the need for effective consumer protection rights. Michael Höhne scrutinises the rescinding of withdrawn contracts in light of the tension between opportunism and effectiveness and against the background of the Consumer Rights Directive.

Springob, Anne

Der verbraucherrechtliche Unternehmerbegriff

Seine Übertragung auf das deutsche HGB nach Vorbild der UGB-Reform in Österreich

Volume 353
2016. XXI, 296 pages.

ISBN 9783161541049
sewn paper 64,00 €

ISBN 9783161541506
eBook PDF 64,00 €

Germany's commercial law is in need of reform and its code does not apply to all entrepreneurs, with the likes of freelancers, farmers and foresters still enjoying certain privileges. Austria partly abolished these and defined the term entrepreneur in 2007. Anne Springob argues that this model could and should be adopted.



Nguyen, Thi Hong Trinh

Private International Law in Vietnam

On General Issues, Contracts and Torts in Light of European Developments

Volume 352
2016. XV, 264 pages.

ISBN 9783161541858
sewn paper 59,00 €

ISBN 9783161541865
eBook PDF 59,00 €

After the Vietnamese War, civil relations with foreign elements have increased and, consequently, private international law has gained some importance in Vietnam. However, both the relevant legal provisions and the practice of the courts in Vietnam are insufficient. Trinh Nguyen studies Vietnamese private international law in light of European developments. She focuses in particular on the general issues, contracts and torts. She describes and assesses the currently effective provisions of Vietnamese law and the corresponding judicial practice of the courts. Together with the knowledge of European private international law, with the main emphasis on the Rome I and Rome II Regulation, she makes use of comparative law to propose future developments for Vietnam based on the critical evaluation of the western doctrine.

Finkelmeier, Max

Qualifikation der Vindikation und des Eigentümer-Besitzer-Verhältnisses

Zugleich ein Beitrag zur Qualifikationsmethodik und zur Rechtsvergleichung

Volume 351
2016. XXX, 450 pages.

ISBN 9783161543050
sewn paper 84,00 €

ISBN 9783161544699
eBook PDF 84,00 €

Max Finkelmeier develops an independent functional-comparative characterisation methodology taking into account the increasing penetration of national law of conflicts with European regulations. On this basis, the author characterises the rei vindicatio and the owner-possessor-relationship, taking comprehensive comparative law studies as a focal point.

Schilling, Johannes

Das Internationale Privatrecht der Transportverträge

Die Bestimmung des Beförderungsvertragsstatuts im Spannungsfeld von Art. 5 Rom I-VO und materiellem Einheitstransportrecht

Volume 350
2016. XXXV, 468 pages.

ISBN 9783161542534
sewn paper 79,00 €

ISBN 9783161542541
eBook PDF 79,00 €

International transport law is a confusing mass of single acts. Johannes Schilling tackles the question as to which law applies where when it comes to moving people or hauling goods. The author examines how Rome I Art. 5's new conflict of laws regime relates to the diverse uniform transport acts.

Bierschenk, Lars

Die zweite Instanz im deutschen und französischen Zivilverfahren

Konzeptionelle Unterschiede und wechselseitige Schlussfolgerungen

Volume 349
2015. XXVII, 265 pages.

ISBN 9783161540332
sewn paper 74,00 €

ISBN 9783161540349
eBook PDF 74,00 €

The transformation of the appeals procedure into a correctional mechanism is still widely criticised in German legal circles even though the statutory reform was ushered in more than a decade ago. The law of *double degré de juridiction* in France is meanwhile the antithesis to Germany's reform concept. Lars Bierschenk presents a historical-dogmatic comparison of both systems and offers practical conclusions.



Stempel, Christian

Treu und Glauben im Unionsprivatrecht

Volume 348
2016. XVII, 349 pages.

ISBN 9783161543500
sewn paper 69,00 €

ISBN 9783161544200
eBook PDF 69,00 €

The concept of *good faith* is one of the main distinctive elements of civil and common law legal orders. Its extensive use in EU Private Law is the subject of continuous and controversial debate. This study examines the current state of *good faith* and its functional equivalents in codified EU Private Law as well as in the case law of the European Court of Justice.

Frank, Ansgar

Formwechsel im Binnenmarkt

Die grenzüberschreitende Umwandlung von Gesellschaften in Europa

Volume 347
2016. XXIII, 355 pages.

ISBN 9783161543333
sewn paper 69,00 €

ISBN 9783161544873
eBook PDF 69,00 €

Ansgar Frank develops a study on principles of cross-border transformation of companies in Europe. His analysis of this extremely important practical issue focuses on the scope and limitations of the European freedom of establishment as well as yet unclarified questions of how to cope with such a restructuring.

Labonté, Hendric

Forderungsabtretung International

Art. 14 Rom I-Verordnung und seine Reform

Volume 346
2016. XXI, 283 pages.

ISBN 9783161541803
sewn paper 69,00 €

ISBN 9783161541810
eBook PDF 69,00 €

The commercial significance of assignments, especially in an international context, requires a straightforward conflict of laws provision. However, art. 14 Rome I does not provide enough certainty, particularly when it comes to third party effects. These should be entirely determined by the law of the underlying debt.

Schünemann, Julia Alma

Die Firma im internationalen Rechtsverkehr

Zum Kollisionsrecht der Firma unter besonderer Berücksichtigung des Rechts der Europäischen Union

Volume 345
2016. XXVII, 293 pages.

ISBN 9783161541513
sewn paper 69,00 €

ISBN 9783161541520
eBook PDF 69,00 €

Does an English Limited need to adapt its company name in order to operate in Germany? Julia Alma Schünemann designs an overall concept for dealing with this rarely discussed interface between private and public international and EU law.

Steger, Christian

Die Präklusion von Versagungsgründen bei der Vollstreckung ausländischer Schiedssprüche

Eine Untersuchung im Rahmen des New Yorker Übereinkommens

Volume 344
2015. XXV, 305 pages.

ISBN 9783161542497
sewn paper 74,00 €

ISBN 9783161542503
eBook PDF 74,00 €

Recognising and enforcing foreign awards are fundamental aspects of international commercial arbitration. Christian Steger compares German, English and Belgian law on preclusion of objections when a party has not initiated setting aside proceedings.

Jenderek, Fabian

Die arbeitsrechtliche Stellung geschäftsführender Organmitglieder im Internationalen Privatrecht

Volume 343
2015. XXIX, 210 pages.

ISBN 9783161536991
sewn paper 64,00 €

ISBN 9783161537004
eBook PDF 64,00 €

Employment rights and how they should be applied for company directors and board members is a controversial subject which has been well disputed in international law circles. Similar questions, which have however been discussed less, also arise when the law applicable to the relationship has to be decided.

Bauermann, Thomas

Der Anknüpfungsgegenstand im europäischen Internationalen Lauterkeitsrecht

Volume 342
2015. XXVI, 332 pages.

ISBN 9783161539084
sewn paper 74,00 €

ISBN 9783161539473
eBook PDF 74,00 €

For the first time, Article 6 of the Rome II Regulation contains uniform European provisions on the private international law of unfair competition. This poses particular problems since there are huge differences in EU member states' understanding of unfair competition law. Against this background, Thomas Bauermann examines the autonomous European concept of unfair competition and its characteristics.

Stübinger, Malte

Teilnehmerhaftung bei fehlerhafter Kapitalmarktinformation in Deutschland und den USA

Zugleich ein Beitrag zur Systematik des § 830 Abs. 1 S. 1, Abs. 2 BGB

Volume 341
2015. XXVII, 408 pages.

ISBN 9783161538964
sewn paper 74,00 €

ISBN 9783161539398
eBook PDF 74,00 €

Who is liable to the investing public in case of financial misstatements to the market? The US Supreme Court has, in a number of landmark cases, virtually shut down on aiding and abetting liability. In German law, consultants' liability has mostly not been discussed. This thesis fills in that gap, specifically by combining sec. 830 of the civil code with liability statutes from the stock trade code.



Maslow, Christina

Der Schutz des immateriellen Erfüllungsinteresses bei Vertragsverletzung durch Schadensersatz

Eine rechtsvergleichende Untersuchung auf der Grundlage des deutschen und englischen Rechts

Volume 340
2015. XX, 218 pages.

ISBN 9783161533662
sewn paper 64,00 €

Christina Maslow examines if and under which conditions immaterial interests in a proper performance of the contract are protected through monetary compensation. The author works through the jurisdiction of both legal systems, analyzes and evaluates the respective approaches and compares them with one another.

Alps, Heike

Beilegung individualarbeitsrechtlicher Streitigkeiten in Japan

Volume 339
2015. XXIII, 352 pages.

ISBN 9783161533655
sewn paper 74,00 €

ISBN 9783161534034
eBook PDF 74,00 €

It was not until the turn of the millennium that procedures to settle individual labor disputes were introduced on a national level in Japan: conciliation proceedings by administrative bodies and employment tribunals before district courts. When examined closely, these both prove to be proceedings of an alternative resolution of disputes.

Rupp, Caroline S.

Grundpfandrechte zwischen Flexibilität und Schutz

Ein kontinentaleuropäischer Rechtsvergleich und neue Gedanken zu einer »Eurohypothek«

Volume 338
2015. XXVI, 746 pages.

ISBN 9783161541896
sewn paper 109,00 €

ISBN 9783161541902
eBook PDF 109,00 €

Despite efforts to create a »Euro Mortgage«, mortgage rights are still regulated in national legislation only. This book analyses and compares common mortgage rights in Germany, Austria, Switzerland, France, and Italy to develop a new pan-European model suitable for the 21st century. The author focuses on three aspects: the link between the security right and the secured claim, publicity, and broadening the scope of application.

Rosenkranz, Frank

Die Beschränkung der Rückwirkung von Entscheidungen des Europäischen Gerichtshofs

Volume 337
2015. XXXII, 584 pages.

ISBN 9783161536472
sewn paper 99,00 €

ISBN 9783161536625
eBook PDF 99,00 €

Judicial retroactivity and its limitation in EU law are of unchanged practical relevance. Frank Rosenkranz discusses their theoretical foundations, analyses requirements and consequences on a comprehensive basis, and integrates them in the multilevel system of EU and Member State law.



Behme, Caspar

Rechtsformwahrende Sitzverlegung und Formwechsel von Gesellschaften über die Grenze

Ein Beitrag zum Prinzip der gegenseitigen Anerkennung im europäischen Gesellschaftsrecht

Volume 336
2015. XX, 347 pages.

ISBN 9783161534621
sewn paper 74,00 €

ISBN 9783161538995
eBook PDF 74,00 €

The entire judicature of the European Court of Justice regarding the freedom of establishment of companies can be traced back to one uniform premise: interpreting the fundamental freedoms according to the principle of mutual recognition. Caspar Behme elucidates both content and functioning of this principle; a principle which, at the same time, serves as the European Union standard for member states that undertake to regulate the transnational mobility of companies through their respective conflict of laws rules, company and transformation laws.

Belakouzova, Alla

Widerrufsrecht bei Internetauktionen in Europa?

Eine vergleichende Analyse des deutschen, englischen, russischen und belarussischen Rechts unter Berücksichtigung der Rechtsentwicklung in der EU und der GUS

Volume 335
2015. XXIV, 299 pages.

ISBN 9783161539091
sewn paper 69,00 €

ISBN 9783161539442
eBook PDF 69,00 €

Are consumers participating in internet auctions entitled to cancel their contracts? Does relevant German law conform to the requirements of EU consumer protection law? The author compares German, English, Russian and Belarussian law, analyses the European Directives 2011/83/EU and 97/7/EC and explains why EU-law needs clarification in this respect.

Boosfeld, Kristin

Gewinnausgleich

Vergleichende und systematisierende Gegenüberstellung der französischen, niederländischen und englischen Tradition

Volume 334
2015. XVII, 325 pages.

ISBN 9783161539107
sewn paper 69,00 €

ISBN 9783161539152
eBook PDF 69,00 €

Kristin Boosfeld depicts the heterogeneous traditions of disgorgement of profits in French, Dutch and English law. On this basis, she develops criteria to give a consistent answer to the question whether and to what extent profits, be they made by violation of property or any other right, should be disgorged.

Duden, Konrad

Leihmutterschaft im Internationalen Privat- und Verfahrensrecht

Abstammung und ordre public im Spiegel des Verfassungs-, Völker- und Europarechts

Volume 333
2015. XXIV, 392 pages.

ISBN 9783161540240
sewn paper 74,00 €

ISBN 9783161540257
eBook PDF 74,00 €

More and more Germans seek out foreign surrogate mothers to bear children which they will then raise as their own. But does a child legally belong to these parents once they return to Germany? Surrogate motherhood raises questions, regardless of the fact that the fundamental and human rights of the child often prescribe clear answers.



Brandt, Verena

Das englische Disclosure-Verfahren

Ein Modell für Zugang zu Information und Beweis im deutschen Zivilprozess?

Volume 332
2015. XXVII, 394 pages.

ISBN 9783161525124
sewn paper 74,00 €

ISBN 9783161527937
eBook PDF 74,00 €

In a comparison with the English Disclosure procedure, Verena Brandt studies whether there are deficiencies in the access to information and evidence in German civil proceedings and deals with the extent to which the basic idea of the English regulation for remedying a lack of information through no fault of one's own can be utilized in German law.

Deren, Deniz Halil

Internationales Enteignungsrecht

Kollisionsrechtliche Grundlagen und Investitionsschutzfragen

Volume 331
2015. XXII, 340 pages.

ISBN 9783161537424
sewn paper 69,00 €

ISBN 9783161537431
eBook PDF 69,00 €

Since the 20th century, states have extensively been exercising their right to expropriate private property. These expropriations have involved goods (such as works of art, means of production or natural resources) as well as shares, claims and intellectual property rights. Yet under what conditions does German law recognise expropriations performed by other states and what role does investment protection law play in this context?

Schwittek, Eva

Internationales Gesellschaftsrecht in Japan

Im Vergleich mit dem Internationalen Gesellschaftsrecht in der EU und in Deutschland

Volume 330
2015. XXV, 398 pages.

ISBN 9783161533686
sewn paper 79,00 €

ISBN 9783161534508
eBook PDF 79,00 €

Eva Schwittek analyzes the international company law of Japan from a comparative law perspective. Her analysis of the current legal situation is embedded in the historical and economic context and treats legal policy issues. It is the first comprehensive study on this legal topic in a Western language.

Dicke, Andrea Isabell

Kapitalmarktgeschäfte mit Verbrauchern unter der Rom I-VO

Volume 329
2015. XXVII, 393 pages.

ISBN 9783161533990
sewn paper 79,00 €

ISBN 9783161538049
eBook PDF 79,00 €

Article 6, paragraph 4, items d) and e) of the Rome I Regulation establish various capital market-related categories which are excluded from the general consumer protection under the special conflict of laws rule for consumer contracts in article 6 of the Rome I Regulation. Andrea Isabell Dicke examines the scope of application and practical relevance of this exemption provision.



Pietrek, Marietta

Konsens über Tradition?

Eine Studie zur Eigentumsübertragung in Brasilien, Deutschland und Portugal

Volume 328
2015. XXIV, 337 pages.

ISBN 9783161537189
sewn paper 74,00 €

ISBN 9783161537356
eBook PDF 74,00 €

The German and Portuguese legal systems are diametrically opposed regarding the transfer of both movable and immovable property. The Brazilian civil law strikes a balance between these two. However, this study shows that it should still not be the system of choice in a process of international harmonization.

Juristische Methodenlehre und Immobiliarsachenrecht

Deutsch-chinesische Tagung vom 21.-23.8.2013

Hrsg. v. Hui Huang, Franz J. Säcker u. Claudia Schubert

Volume 327
2015. X, 250 pages.

ISBN 9783161535994
sewn paper 59,00 €

ISBN 9783161536007
eBook PDF 59,00 €

German legal methods have been received in China and adapted on an abstract level in the academic debate there. Its integration in the legal reasoning of cases and the legal analysis of statutes was the subject of a conference for Chinese and German scholars in August 2013. The legal argumentation concentrated on the law of immovable property, and especially home ownership, something which has caused significant legal conflicts in China. This volumes documents the Chinese-German dialogue on the subject.

Survey of contents

Helmut Köhler: Die Auslegung von Gesetzen als methodisches Problem – *Franz Jürgen Säcker*: Der Wille des historischen Gesetzgebers bzw. der objektive Gesetzessinn am Beispiel der Entwicklung des Eigentumsbegriffs im deutschen und chinesischen Recht – *Qingyu ZHU*: Herrscherwille oder der Wille des Gesetzgebers? – Aufbau der Rechtsinstitutionen der unbeweglichen Sachen in China – *Hartmut Oetker*: Systematische und verfassungskonforme Auslegung von Gesetzen anhand des Begriffs des Immobiliareigentums aus Sicht des deutschen Sachenrechts – *Shiyong TIAN*: Wem gehört das Schwemmland? – *Reinhard Singer*: Lücken im Gesetz und deren Ausfüllung durch richterliche Rechtsfortbildung am Beispiel des zivilrechtlichen Nachbarschutzes – *Hailong Ji*: Lücken im Gesetz und deren Ausfüllung durch richterliche Rechtsfortbildung am Beispiel des zivilrechtlichen Nachbarschutzes in China – *Jan Busche*: Das Konzept des Wohnungseigentums – *Weifei SUN*: Einige Fragen in Bezug auf das Wohnungseigentum an Gebäuden in China – *Claudia Schubert*: Die Vormerkung – ein Instrument zur Sicherung des Erwerbs von Immobilien und beschränkt dinglichen Rechten an Grundstücken – *Shuanggen ZHANG*: Probleme bei der Vormerkung im chinesischen Recht – *Jan von Hein/Lydia Beil*: Gutgläubiger Erwerb von Immobilien im deutschen Recht – *Baoyu LIU*: Studie zur Rechtsnatur und Art der Schadensersatzhaftung des Registerorgans für Eintragungsfehler – *Dirk Looschelders*: Die Grundbuchberichtigung bei fehlerhaftem Grundbuch – *Xiangxiang WU*: Grundbuchberichtigung bei fehlerhaftem Grundbuch in China – ein Versuch der Auslegung – *Torsten Körber*: Hypothek und Grundschuld als Sicherungsrechte – *Hongliang WANG*: Die Einschränkung der Verfügungsmöglichkeit über mit einem Pfandrecht belastete Immobilien – *Maik Wolf*: Die Vermögenshaftung nach dem Haftungsverband der Hypothek und Grundschuld – *Hui HUANG*: Vom Rechtsideal zur Rechtspraxis - zur Diskussion über Voraussetzungen und Schwierigkeiten bei der Entwicklung eines chinesischen Gesetzeskommentars zum Zivilrecht und die Möglichkeiten einer deutsch-chinesischen Kooperation

Zoppel, Moritz

Europäische Diskriminierungsverbote und Privatrecht

Unionsrechtliche Vorgaben und Sanktionen

Volume 326
2015. XIV, 221 pages.

ISBN 9783161532986
sewn paper 64,00 €

ISBN 9783161533129
eBook PDF 64,00 €

Moritz Zoppel examines European anti-discrimination legislation in private law and questions its compatibility with the liberal notion of freedom of contract. The author initially introduces the reader to a suggestion for a coherent system of coexistence of the two regimes from a German perspective. He then explores the scope of EU legislative competence in the field of anti-discrimination law (Article 19 TFEU), and thoroughly analyses the effects of the European Charter of Fundamental Rights on equality rights for private parties. In the fourth part of his work, Moritz Zoppel outlines the legal prerequisites of sanctioning mechanisms in private law that are in coherence with EU law.



Möller, Lena-Maria

Die Golfstaaten auf dem Weg zu einem modernen Recht für die Familie?

Zur Kodifikation des Personalstatuts in Bahrain, Katar und den Vereinigten Arabischen Emiraten

Volume 325
2015. XXII, 259 pages.

ISBN 9783161535819
sewn paper 69,00 €

ISBN 9783161535826
eBook PDF 69,00 €

Lena-Maria Möller considers the dynamics of legal development in Muslim family law. Based on an interdisciplinary and comparative analysis of the recently enacted family codes of Bahrain, Qatar, and the United Arab Emirates, she explores the degree to which the reformed rules governing marriage, divorce and custody meet the countries' changing regulatory needs created by the rapid socioeconomic transformation that the Arab Gulf region has undergone in the past decades.

Raupach, Claudia

Ehescheidung mit Auslandsbezug in der Europäischen Union

Die Rom III-Verordnung als Kernstück eines einheitlichen europäischen Scheidungskollisionsrechts

Volume 324
2014. XXIII, 325 pages.

ISBN 9783161536038
sewn paper 74,00 €

ISBN 9783161536045
eBook PDF 74,00 €

Due to the Rome III Regulation, several Member States of the European Union have adopted common conflict of laws rules concerning divorce and legal separation. The author provides a detailed analysis and assessment of this regulation and also investigates the remaining conflict of laws rules of those Member States that have chosen not to participate in this enhanced cooperation.

Kalin, Christian

Verhaltensnorm und Kollisionsrecht

Eine Studie zu den rechtsgeschäftlichen Auswirkungen der Korruption im internationalen Rechtsverkehr

Volume 323
2014. XIX, 279 pages.

ISBN 9783161536120
sewn paper 69,00 €

ISBN 9783161536137
eBook PDF 69,00 €

Proceeding from the fundamental distinction between norms of conduct and sanction norms, Christian Kalin examines how corruptive behaviour may influence the validity of legal transactions. In particular, he develops a system of conflict of laws rules which reflects the general nature of substantive norms of conduct.

Fix, Christian

Die fiducie-sûreté

Eine Untersuchung der französischen Sicherungstreuhand aus deutscher Sicht

Volume 322
2014. XXIII, 387 pages.

ISBN 9783161534065
sewn paper 79,00 €

ISBN 9783161534737
eBook PDF 79,00 €

Christian Fix examines the French *fiducie-sûreté* from a comparative perspective. His study sheds light on the doctrinal basis of this new instrument of French civil law and provides advice for its practical use as a credit security.



Vashakidze, George

Das Internationale Privatrecht von Georgien

Volume 321
2014. XXVIII, 398 pages.

ISBN 9783161530159
sewn paper 79,00 €

ISBN 9783161530357
eBook PDF 79,00 €

George Vashakidze provides a systematic and detailed analysis of Georgian private international law, the law that has to determine which law applies if the facts of a case have a foreign element. In doing so, he often refers to German and European private international law.

Lund, Nils

Der Gerichtsstand der Streitgenossenschaft im europäischen Zivilprozessrecht

Allgemeine Lehren, Anwendung im Patent- und Kartelldeliktsrecht

Volume 320
2014. XXIX, 371 pages.

ISBN 9783161536649
sewn paper 79,00 €

ISBN 9783161536694
eBook PDF 79,00 €

Nils Lund analyzes litigation against multiple defendants under the EU jurisdiction rules. He develops general guidelines for the joinder of claims and applies those guidelines to various constellations of practical significance in patent and antitrust litigation.

Messinger, Markus

Rechtsunsicherheiten bei internationalen elektronischen Handelsgeschäften

Ihre Reduktion unter Berücksichtigung des deutschen, US-amerikanischen und internationalen Vertragsrechts

Volume 319
2014. XXXVI, 541 pages.

ISBN 9783161533600
sewn paper 99,00 €

ISBN 9783161533617
eBook PDF 99,00 €

The globalization and information technology creates new challenges for the legal framework of business-to-business transactions. Markus Messinger analyses the German, US and international law for electronic contracts and proposes economically efficient alternatives.

Schuh, Sandra

Gemeinnützige Rechtsträger in Japan und Deutschland

Eine rechtsvergleichende Studie gemeinnütziger Vereine und Stiftungen

Volume 318
2014. XXVII, 272 pages.

ISBN 9783161530210
sewn paper 69,00 €

ISBN 9783161531972
eBook PDF 69,00 €

In order to meet the needs of modern Japanese society, Japanese lawmakers have been reforming the law pertaining non-profit legal entities since 1998. In her detailed analysis, Sandra Schuh examines the legal changes in Japanese civil law and tax law with regard to non-profit associations and foundations. Additionally she relates these changes to the corresponding German regulations.



Franck, Gunnar

Der Direktanspruch gegen den Haftpflichtversicherer

Eine rechtsvergleichende Untersuchung zum deutschen und skandinavischen Recht

Volume 317
2014. XXIII, 235 pages.

ISBN 9783161534805
sewn paper 69,00 €

ISBN 9783161534997
eBook PDF 69,00 €

To what extent does German and Scandinavian law make it possible for an injured party to take immediate proceedings against the liability insurer? Such direct enforcement leads to various problems and raises the question as to whether objections on the side of the insurer have an effect on the injured party. Gunnar Franck analyzes and comprehensively evaluates the rules relating to the legal systems examined here.

Bothof, Andreas

Perspektiven der Minderjährigenadoption

Volume 316
2014. XIV, 231 pages.

ISBN 9783161534584
sewn paper 64,00 €

ISBN 9783161534843
eBook PDF 64,00 €

A reform of adoption and child welfare law is overdue in Germany. This is a study of current German child adoption law, as well as of international law, European private law and inter-country adoption law, and is based on a methodological pluralism approach.

Dengel, Katja

Die europäische Vereinheitlichung des Internationalen Ehegüterrechts und des Internationalen Güterrechts für eingetragene Partnerschaften

Volume 315
2014. XXXIII, 414 pages.

ISBN 9783161534577
sewn paper 89,00 €

ISBN 9783161534782
eBook PDF 89,00 €

The European Commission's proposals of the applicable law regarding matrimonial property regimes and the property consequences of registered partnerships should provide a clear legal framework for determining the property relations of international couples. Katja Dengel analyzes these proposals and offers modification suggestions based on a comparison of all the member states' relevant matrimonial property laws and conflict of law rules.

Kränzle, Michael

Heimat als Rechtsbegriff?

Eine Untersuchung zu Domicile und gewöhnlichem Aufenthalt im Lichte der EU-Erbrechtsverordnung

Volume 314
2014. XXIX, 313 pages.

ISBN 9783161532764
sewn paper 69,00 €

ISBN 9783161533082
eBook PDF 69,00 €

The new EU Regulation on Succession harmonizes the Member States' rules of international jurisdiction and of applicable law in international succession cases (cross-border successions) and is applicable to all deaths on or after August 17th 2015. Michael Kränzle examines the regulation's new objective connecting factor, habitual residence, and compares it to previously used connecting factors. He also discusses a number of problematic cases connected to the EU regulation.



Allwörden, Sebastian von

US-Terrorlisten im deutschen Privatrecht

Zur kollisions- und sachrechtlichen Problematik drittstaatlicher Sperrlisten mit extraterritorialer Wirkung

Volume 313
2014. XVIII, 198 pages.

ISBN 9783161532740
sewn paper 64,00 €

ISBN 9783161532757
eBook PDF 64,00 €

US sanctions lists against terrorism prohibit dealings to a large extent with the natural and legal persons listed and are not limited to US territory. Sebastian von Allwörden examines how the resulting conflicts can be solved in German international and substantive private law.

Kühn, Anna-Lisa

Die gestörte Gesamtschuld im Internationalen Privatrecht

Am Beispiel einer Spaltung des Mehrpersonenverhältnisses zwischen deutschem und englischem Recht

Volume 312
2014. XXIV, 265 pages.

ISBN 9783161534102
sewn paper 69,00 €

ISBN 9783161534157
eBook PDF 69,00 €

Anna-Lisa Kühn analyzes a situation in which a creditor has a claim against several debtors whose obligations are governed by different legal systems and who would be liable for the same claim could one of them not rely on an exemption from liability, the impact of which is assessed differently by the legal systems involved. She shows how this should be treated under the Rome I and Rome II Regulations.

Born, Michael

Europäisches Kollisionsrecht des Effektengiros

Intermediatisierte Wertpapiere im Schnittpunkt von Internationalem Sachen-, Schuld- und Insolvenzrecht

Volume 311
2014. XXI, 443 pages.

ISBN 9783161522376
sewn paper 89,00 €

ISBN 9783161523694
eBook PDF 89,00 €

The law applicable to securities held in book-entry form in securities accounts is subject to a variety of European private international law rules. However, these provisions have not yet established a complete and consistent conflict of laws regime. Michael Born analyses the inconsistencies and gaps and also examines the options for eliminating the identified shortcomings.

Kim, Hwa

Die Nacherfüllung als Rechtsbehelf des Käufers nach CISG, deutschem und koreanischem Recht

Volume 310
2014. XVII, 270 pages.

ISBN 9783161526848
sewn paper 69,00 €

ISBN 9783161527944
eBook PDF 69,00 €

Within the scope of a sales contract, the supplementary performance is seen as a fundamental right of the purchaser which can be executed in his interest in the case of a breach of contract. Hwa Kim analyzes the claim to supplementary performance in various legal regimes, for example in the CISG as well as the German and Korean Civil Codes, and studies the problems involved in the claim to supplementary performance from this new perspective. He shows that the claim to supplementary performance can be characterized as a legal remedy of the purchaser.



Pohlhausen, Carlo

Unternehmensfinanzierung am Kapitalmarkt in den arabischen Staaten

Eine rechtsvergleichende Analyse von Aktien-, Anleihe- und Hybridemissionen am Beispiel Ägyptens, der Vereinigten Arabischen Emirate, Saudi-Arabiens und Jordaniens

Volume 309
2014. XXXVII, 796 pages.

ISBN 9783161527678
sewn paper 109,00 €
ISBN 9783161531965
eBook PDF 109,00 €

The capital markets of the Arab World have seen a dramatic rise over the last decade. Still, until today the corporate and capital market laws of the region have hardly been in the focus of legal and economic research. Carlo Pohlhausen analyses the regulation of initial and seasoned equity offerings, bond issues and hybrid securities in different Arab markets, examines its historical origins, cultural environment and practical acceptance and reviews it in light of modern economic research.

Riebold, Julia

Die Europäische Kontopfändung

Volume 308
2014. XXXI, 452 pages.

ISBN 9783161532306
sewn paper 94,00 €
ISBN 9783161532771
eBook PDF 94,00 €

Julia Riebold studies the prerequisites for and the effects of cross-border garnishment in the European Union from the perspective of the German courts. She provides new approaches to the question of the recognition of foreign garnishments of accounts in Germany and gives a proposal for a European regulation.

Pöttker, Erik

Klimahaftungsrecht

Die Haftung für die Emission von Treibhausgasen in Deutschland und den Vereinigten Staaten von Amerika

Volume 307
2014. XXV, 476 pages.

ISBN 9783161533105
sewn paper 94,00 €
ISBN 9783161533112
eBook PDF 94,00 €

Are greenhouse gas emitters liable for climate change? Erik Pöttker compares German and American liability law under the aspects of corrective and distributive justice. This leads to a statement about desirability and practicability of a tort law based response to climate change.

Lein, Eva

Die Verzögerung der Leistung im europäischen Vertragsrecht

Volume 306
2015. XXVII, 534 pages.

ISBN 9783161507113
sewn paper 94,00 €
ISBN 9783161540714
eBook PDF 94,00 €

The issue of whether European contract law needs to include a specific regime for late performance is a subject of controversy. Eva Lein analyzes this question in light of international conventions and historical foundations and draws comparisons with EU legislation in the area of private law and various national legal systems.



Wilke, Christine

Die Adoption minderjähriger Kinder durch den Stiefelternteil

Vergleichende Analyse des deutschen und englischen Rechts

Volume 305
2014. XXII, 352 pages.

ISBN 9783161528187
sewn paper 74,00 €

ISBN 9783161528620
eBook PDF 74,00 €

In a comparison to English law and practice, Christine Wilke studies the legal conflicts of so-called step-parent adoptions, which in Germany amount to more than 50 per cent of adoptions. She does this by referring to the findings of psychology and the social sciences and sociopolitical considerations as well.

Wyen, Jan-Henning

Rechtswahlfreiheit im europäischen Insolvenzrecht

Eine Untersuchung zum forum shopping unter der EuInsVO unter besonderer Berücksichtigung von Effizienz Gesichtspunkten

Volume 304
2014. XXX, 400 pages.

ISBN 9783161522468
sewn paper 79,00 €

ISBN 9783161523137
eBook PDF 79,00 €

The European Insolvency Regulation de facto enables the parties to insolvency proceedings to exert influence with regard to which Member State's insolvency law will govern such proceedings. Jan-Henning Wyen analyses the scope and limits of such forum shopping, with a particular focus on efficiency considerations.

Ptak, Paulina

Der Europäische Vollstreckungstitel und das rechtliche Gehör des Schuldners

Eine Analyse der EuVTVO anhand der deutschen und polnischen Anpassungsvorschriften

Volume 303
2014. XXII, 266 pages.

ISBN 9783161530227
sewn paper 69,00 €

ISBN 9783161530562
eBook PDF 69,00 €

The European Regulation has created a European Enforcement Order for uncontested claims. It applies to claims to which the debtor has expressly agreed or never objected. In such cases the debtor's right to be heard must be safeguarded. Paulina Ptak analyzes the guarantee of the right to be heard in the European Regulation and its application in Germany and Poland.

Aschenbrenner, Mark

Die Sicherungsübereignung im deutschen, englischen und brasilianischen Recht

Volume 302
2014. XXX, 380 pages.

ISBN 9783161531569
sewn paper 79,00 €

ISBN 9783161531576
eBook PDF 79,00 €

What is similar in the German security transfer of title, the English chattel mortgage and the Brazilian alienação fiduciária is that the legal title of the collateral is transferred to the secured party. This concept causes difficulties in each of the legal systems. Mark Aschenbrenner deals with the typical problems and the different approaches of German, English and Brazilian law.



Winter, Matthias

Das Lösungsrecht nach gutgläubigem Erwerb

Ein Mittel zum Ausgleich von Ausfallrisiko und Sachzuordnung, unter vergleichender Berücksichtigung des deutschen und französischen Rechts

Volume 301
2014. XXV, 425 pages.

ISBN 9783161526220
sewn paper 89,00 €
ISBN 9783161529603
eBook PDF 89,00 €

Based on a comparative study of German and French regulations and inspired by the mechanics of the right of rescission, the author reassigns the interests concerned, ownership and risk default, in the case of acquisition in good faith.

Matz, Henry

Regulierung von Eigentumssicherheiten an beweglichen Sachen

Reformüberlegungen auf rechtsvergleichender Grundlage

Volume 300
2014. XXVI, 417 pages.

ISBN 9783161529436
sewn paper 79,00 €
ISBN 9783161530739
eBook PDF 79,00 €

Henry Matz undertakes a comparative evaluation of different legislative approaches in the field of secured credit over movables. He maintains that German and Swiss legislators can achieve effective and efficient outcomes on the basis of their own laws without the need to transplant approaches of other legal systems.

Lemmerz, Anna-Luisa

Die Patientenverfügung

Autonomie und Anknüpfungsgerechtigkeit

Volume 299
2014. XXI, 360 pages.

ISBN 9783161528491
sewn paper 74,00 €
ISBN 9783161528521
eBook PDF 74,00 €

Recently many European legislators have passed a substantive law that governs the validity of the living will. In most cases however they have not addressed the conflict of laws in dealing with living wills. In her thesis, Anna-Luisa Lemmerz develops a German conflict of laws rule on the basis of relevant methodology for handling cross-border living wills.

Bareiß, Andreas

Pflichtenkollisionen im transnationalen Beweisverkehr

Offenbarungspflichten im Zivilprozessrecht der USA und Offenbarungsverbote nach deutschem und europäischem Recht

Volume 298
2014. XIX, 208 pages.

ISBN 9783161528170
sewn paper 64,00 €
ISBN 9783161528644
eBook PDF 64,00 €

Andreas Bareiß studies the legal position of German companies involved in an American pretrial discovery which are caught in a dilemma between disclosure obligations in accordance with the American law of civil procedure and the prohibition of disclosure in accordance with German and European law.



Wais, Hannes

Der Europäische Erfüllunggerichtsstand für Dienstleistungsverträge

Zur Auslegung des Art. 5 Nr. 1 lit. b 2. Spiegelstrich EuGVO

Volume 297
2013. XXVI, 254 pages.

ISBN 9783161526992
sewn paper 69,00 €

ISBN 9783161527371
eBook PDF 69,00 €

Article 5 No. 1 is one of the most important provisions of the Brussels I Regulation. In his work, the author examines the special provision for place of performance jurisdiction for service contracts in Article 5 No. 1 lit. b 2. Indent Brussels I Regulation. On the basis of the characteristics of cross-border dispute resolution, the author develops a core thesis, which then serves as a standard of review, and also a guideline, for the interpretation of the provision. The provision is examined in detail, in particular with regard to its substantive scope and the method of its application. The established approaches to the known problems of the provision are critically evaluated and new solutions are presented. In addition, the author identifies problems which have not been previously discussed and points out possible solutions.

Schmidt, Mareike

Produktrückruf und Regress

Volume 296
2013. XXII, 282 pages.

ISBN 9783161529382
sewn paper 64,00 €

ISBN 9783161529399
eBook PDF 64,00 €

Does the producer of a defective product have an obligation under private law to recall the product from the market? And under which circumstances can the ultimate producer hold its supplier liable for costs incurred in the product recall? These are the questions Mareike Schmidt discusses in a comparative study of German and Swiss private law.

Orgel, Marc

Class Arbitration

Von der Gruppenklage zum Gruppenschiedsverfahren und zurück? Eine Untersuchung zum U.S.-amerikanischen Schiedsverfahrensrecht

Volume 295
2013. XXVII, 437 pages.

ISBN 9783161530142
sewn paper 89,00 €

ISBN 9783161530326
eBook PDF 89,00 €

With its decision on *Green Tree Financial Corp. v. Bazzle* in 2003, the Supreme Court of the United States seems to have suddenly opened the door to the possibility of class arbitration. Marc Orgel analyzes the rise – and maybe the fall – of this highly fascinating procedural tool. In this work, the author provides a concise overview of legal prerequisites as well as a dogmatic study of the mode of operation of class arbitration.

Kroh, Johanna

Der existenzvernichtende Eingriff

Eine vergleichende Untersuchung zum deutschen, englischen, französischen und niederländischen Recht

Volume 294
2013. XXIX, 466 pages.

ISBN 9783161523724
sewn paper 94,00 €

ISBN 9783161524042
eBook PDF 94,00 €

The mobility of companies within Europe has led to the question of the applicable protection of creditors in each individual case. Johanna Kroh studies the regulations for the protection of creditors in England, France and the Netherlands in the case of interference by the partners with the partnership assets, an interference which leads to insolvency. Her study is based on German court rulings on interference causing insolvency.



Baldauf, Nicole

Richtlinienverstoß und Verschiebung der Contra-legem-Grenze im Privatrechtsverhältnis

Der Konflikt zwischen Richtlinie und nationalem Recht bei der Rechtsanwendung

Volume 293
2013. XXVI, 282 pages.

ISBN 9783161528781
sewn paper 74,00 €

ISBN 9783161529146
eBook PDF 74,00 €

Nicole Baldauf addresses the issue of the interpretation of German national law in accordance with EU directives in private law relationships. She focuses on the examination of legal opinions concerning the resolution of conflicts between directives and German national law and proposes a solution conforming to European and German constitutional law with the aid of the institution of state liability.

Albrecht, Annette

Die deliktische Haftung für fremdes Verhalten im französischen und deutschen Recht

Eine rechtsvergleichende Untersuchung unter besonderer Berücksichtigung der Blieck-Rechtsprechung der Cour de cassation

Volume 292
2013. XXVIII, 175 pages.

ISBN 9783161526695
sewn paper 59,00 €

ISBN 9783161526930
eBook PDF 59,00 €

In German law, it is understood that liability for the behavior of another person presupposes fault. A comparison with French law shows that this is not imperative. Using case groups (caregivers, organizations) as examples, Annette Albrecht deals with the basic principles valid in both jurisdictions and provides an outlook for a future European solution.

Schneider, Félicie

Die Leistungsverfügung im niederländischen, deutschen und europäischen Zivilprozessrecht

Volume 291
2013. XXIII, 436 pages.

ISBN 9783161519925
sewn paper 79,00 €

ISBN 9783161521676
eBook PDF 79,00 €

The most effective instruments in cross-border interim legal protection are the provisional measures for which the European Court of Justice developed special requirements in the *van Uden* and *Mietz* decisions. Félicie Schneider analyses these court rulings in view of the upcoming reform of the European Convention on Jurisdiction and the Enforcement of Judgements.

Aubart, Andrea

Die Behandlung der *dépeçage* im europäischen Internationalen Privatrecht

Volume 290
2013. XXVII, 248 pages.

ISBN 9783161526664
sewn paper 64,00 €

ISBN 9783161526947
eBook PDF 64,00 €

» *Dépeçage* » as a term of private international law means the division of the applicable law. In the European judicial area there is a great skepticism towards *dépeçage*, while in US American law the use of *dépeçage* is fairly liberal. However, also in the EU the division of the applicable law can create reasonable and – compared to the application of one law as a whole – advantageous results. The author examines the usage of *dépeçage* in the recent and future legislative acts of the EU which harmonize private international law in many areas (with focus on the Rome I and the Rome I Regulation). In doing so, she identifies the conditions, consequences and possible areas of use of *dépeçage*.



Fervers, Matthias

Hypothèque rechargeable und Grundschuld

Volume 289
2013. XXVI, 259 pages.

ISBN 9783161524905
sewn paper 64,00 €

ISBN 9783161525353
eBook PDF 64,00 €

With the introduction of the »hypothèque rechargeable« in 2006, French lawmakers made a surprising change in the area of charges on real property. Matthias Fervers studies the dogmatic construction and the practical uses of the new security interest in comparison with the German land charge.

Peiffer, Evgenia

Schutz gegen Klagen im forum derogatum

Gültigkeit und Durchsetzung von Gerichtsstandsvereinbarungen im internationalen Rechtsverkehr. Eine rechtsvergleichende Untersuchung unter Berücksichtigung ökonomischer Aspekte

Volume 288
2013. XLIX, 582 pages.

ISBN 9783161524462
sewn paper 99,00 €

ISBN 9783161524479
eBook PDF 99,00 €

What options does a party to a jurisdiction agreement have if he/she is sued in a jurisdiction other than the one agreed upon? Evgenia Peiffer does a comparative study of this issue and proposes amendments to enhance the effectiveness of choice of court agreements within the scope of the Brussels I Regulation.

Köhler, Andreas

Eingriffsnormen – Der »unfertige Teil« des europäischen IPR

Volume 287
2013. XXI, 355 pages.

ISBN 9783161525315
sewn paper 74,00 €

ISBN 9783161525322
eBook PDF 74,00 €

Andreas Köhler shows that, with the enactment of the European Rome Regulations, the applicability of so-called mandatory rules is now exclusively governed by European conflicts law. Based on this premise, he develops a model for a coherent approach to those rules. One of the results obtained is that their applicability can be fully reviewed by the European Court of Justice, which is in line with the important objective of harmonizing judicial decisions in Europe.

Vogeler, Andreas

Die freie Rechtswahl im Kollisionsrecht der außervertraglichen Schuldverhältnisse

Volume 286
2013. XXVI, 470 pages.

ISBN 9783161523977
sewn paper 94,00 €

ISBN 9783161526190
eBook PDF 94,00 €

With the codification of Art. 14 of the Rome II Regulation, European lawmakers harmonized the exercise of party autonomy for non-contractual obligations in European law. Andreas Vogeler does a systematic study of party autonomy in the framework of international private law, at the same time providing recommendations for politics and practical use.

Albrecht, Hendrik

Die Streitsache im deutschen und englischen Zivilverfahren



Volume 285
2013. XIX, 264 pages.

ISBN 9783161523427
sewn paper 64,00 €

ISBN 9783161523892
eBook PDF 64,00 €

In order to conduct civil proceedings sensibly, the parties concerned have to know exactly what they are disputing about. Hendrik Albrecht studies the interpretation of the matter in dispute in English civil proceedings and then compares it to German law and the development in European law.

Nehne, Timo

Methodik und allgemeine Lehren des europäischen Internationalen Privatrechts

Volume 284
2012. XXV, 372 pages.

ISBN 9783161520747
sewn paper 74,00 €

ISBN 9783161524721
eBook PDF 74,00 €

The importance of European Union law has been increasing constantly – especially in private international law (PIL). The PIL regulations adopted by the EU up to now stipulate issues of »general principles« and methodology in fragments only. In his work, the author focuses on the examination of the latter.

Dillmann, Meiko

Der Schutz der Privatsphäre gegenüber Medien in Deutschland und Japan

Eine rechtsvergleichende Untersuchung der zivilrechtlichen Schutzinstrumente

Volume 283
2012. XX, 275 pages.

ISBN 9783161520754
sewn paper 64,00 €

ISBN 9783161521300
eBook PDF 64,00 €

The protection of privacy against media in modern communication and media society is a problem all democratic industrial nations have to deal with. Against this background, in her comparative study Meiko Dillmann investigates how the problems connected with this issue are solved in Germany and Japan, that is in two countries with very different cultures.

Sperling, Florian

Familiennamensrecht in Deutschland und Frankreich

Eine Untersuchung der Rechtslage sowie namensrechtlicher Konflikte in grenzüberschreitenden Sachverhalten

Volume 282
2012. XX, 226 pages.

ISBN 9783161521980
sewn paper 59,00 €

ISBN 9783161523120
eBook PDF 59,00 €

The differences between German and French surname law regularly lead to conflicts such as the »limping« name change. How can these conflicts be avoided? Would it be sensible and realistic to have a uniform European surname law, or is the recognition of names by all of Europe as called for by the European Court of Justice the solution to this?

Knetsch, Jonas

Haftungsrecht und Entschädigungsfonds

Eine Untersuchung zum deutschen und französischen Recht



Volume 281
2012. XXIII, 257 pages.

ISBN 9783161519529
sewn paper 59,00 €

ISBN 9783161521652
eBook PDF 59,00 €

The social and technological upheavals in the modern era pose an enormous challenge to the current law of compensation. In his book, Jonas Knetsch provides a scholarly appraisal of so-called compensation funds which pay damages regardless of the liability of a third party, for example after mass damages.

Rüppell, Philipp

Die Berücksichtigungsfähigkeit ausländischer Anlagenehmigungen

Eine Analyse im Rahmen der grenzüberschreitenden Umwelthaftung nach der Rom II-Verordnung

Volume 280
2012. XXV, 271 pages.

ISBN 9783161519116
sewn paper 64,00 €

ISBN 9783161521669
eBook PDF 64,00 €

The enforcement of environmental liability claims in civil law in foreign countries can cause difficulties due to the exclusionary character of official investment permits, and these difficulties can lead to the inefficiency of the environmental law concerned. Based on the Rome II Regulation of European law and the UNECE Conventions (Espoo and Aarhus), Philipp Rüppell develops a new, viable approach to solving this problem.

Coendet, Thomas

Rechtsvergleichende Argumentation

Phänomenologie der Veränderung im rechtlichen Diskurs

Volume 279
2012. XI, 203 pages.

ISBN 9783161522345
sewn paper 54,00 €

ISBN 9783161523113
eBook PDF 54,00 €

Citing foreign legal systems for the sake of producing a convincing judicial argument has been a custom in judicial decision making for more than a century. However, a generally accepted theoretical framework for this kind of reasoning has not been established as yet. Thomas Coendet's account provides comprehensive information on the fundamental questions raised by the comparative approach in contemporary legal discourse.

Hauser, Paul

Eingriffsnormen in der Rom I-Verordnung

What is behind the new definition of the term »mandatory rule«? Who has the authority to interpret this term, and what standards are applied? Paul Hauser explains the use of domestic mandatory rules and then studies the connection to international mandatory rules. He concludes by making a reform proposal.

Volume 278
2012. XVIII, 166 pages.

ISBN 9783161520631
sewn paper 54,00 €

ISBN 9783161521317
eBook PDF 54,00 €

Wolf, Ulrich M.

Der europäische Gerichtsstand bei Konzerninsolvenzen

The international jurisdiction for group insolvencies in Europe has occupied the courts for more than ten years. Ulrich M. Wolf examines the debtor's centre of main interests as the relevant factor and recommends a practical approach that facilitates a uniform venue for groups of companies.

Volume 277
2012. XXIII, 254 pages.

ISBN 9783161519826
sewn paper 64,00 €

ISBN 9783161521683
eBook PDF 64,00 €

Deißner, Susanne

Interregionales Privatrecht in China

- zugleich ein Beitrag zum chinesischen IPR

Volume 276
2012. XXXIV, 535 pages.

ISBN 9783161521799
sewn paper 99,00 €

ISBN 9783161522529
eBook PDF 99,00 €

Susanne Deißner studies the rules of mainland China, Taiwan, Macau and Hong Kong on the interregional conflict of laws covering jurisdiction, applicable law, recognition and enforcement of judgments.

Wendelstein, Christoph

Kollisionsrechtliche Probleme der Telemedizin

Zugleich ein Beitrag zur Koordination von Vertrag und Delikt auf der Ebene des europäischen Kollisionsrechts

Volume 275
2012. XXXII, 541 pages.

ISBN 9783161520112
sewn paper 99,00 €

ISBN 9783161521928
eBook PDF 99,00 €

Telemedicine has created a wide range of new problems for medical malpractice law in international private and procedural law. Christoph Wendelstein addresses these problems, focusing on the conflict of laws. His greater concern however is a fundamental reassessment of the relationship between contract law and tort law as exemplified by international medical malpractice law.

Schattka, Friederike

Die Europäisierung der Abschlussprüferhaftung

Eine juristisch-ökonomische Analyse

Volume 274
2012. XXIV, 360 pages.

ISBN 9783161519574
sewn paper 69,00 €

ISBN 9783161520884
eBook PDF 69,00 €

Friederike Schattka analyses whether and under which conditions a limitation of the statutory auditors' liability – as proposed by the European Commission in 2008 – might be reasonable from an economic as well as justifiable from a legal point of view.

Übertazzi, Benedetta

Exclusive Jurisdiction in Intellectual Property

Volume 273
2012. XVIII, 341 pages.

ISBN 9783161520877
eBook PDF 74,00 €

Benedetta Übertazzi argues that exclusive jurisdiction rules related to intellectual property rights cases are not only insufficiently supported by any of the arguments usually invoked in their favor, but are also in fact contrary to public international law rules concerning the avoidance of a denial of justice and the fundamental human right of access to a court. They should therefore be abandoned with respect to infringement and validity claims involving either registered or unregistered intellectual property rights. The author claims that this abandonment would be consistent with the clear trend already existing in this respect and would prevent economic inequalities in cross-border intellectual property litigation, without however leading to abusive forum shopping.



Maurer, Andreas

Lex Maritima

Grundzüge eines transnationalen Seehandelsrechts

Volume 272
2012. XVII, 260 pages.

ISBN 9783161517815
sewn paper 64,00 €

ISBN 9783161520228
eBook PDF 64,00 €

Largely unnoticed by the law, the maritime trade sector has developed private mechanisms of norm-making, adjudication, and enforcement which can be called transnational law. In this context especially the participation of stakeholders provides legitimation of privately made norms and standards in international maritime trade.

Bartl, Franziska

Die neuen Rechtsinstrumente zum IPR des Unterhalts auf internationaler und europäischer Ebene

Volume 271
2012. XXVII, 246 pages.

ISBN 9783161518034
sewn paper 64,00 €

ISBN 9783161519437
eBook PDF 64,00 €

Due to the increasing number of multinational marriages as well as divorces, the cross-border enforcement of decisions relating to maintenance obligations is becoming more important. Franziska Bartl provides a detailed discussion and analysis of the newly created legal instruments which enable the enforcement of these decisions on an international and a European level.

Wesiack, Max

Europäisches Internationales Vereinsrecht

Grenzüberschreitende Sitzverlegung und Umwandlung im Lichte der Niederlassungsfreiheit und des allgemeinen Freizügigkeitsrechts

Volume 270
2011. XXVII, 332 pages.

ISBN 9783161517853
sewn paper 69,00 €

ISBN 9783161518584
eBook PDF 69,00 €

Are associations allowed to transfer their head office to another EU Member State and to participate in cross-border mergers, splits and conversions? Max Wesiack explores these questions in the light of the freedom of establishment and the general right to freedom of movement. He arrives at the conclusion that associations are to a large extent entitled to do so as well.

Krzymuski, Marcin

Umweltprivatrecht in Deutschland und Polen unter europarechtlichem Einfluss

Volume 269
2012. XXVIII, 312 pages.

ISBN 9783161517051
sewn paper 69,00 €

ISBN 9783161518577
eBook PDF 69,00 €

Marcin Krzymuski deals with two levels of private environmental law. He begins by examining the law applicable to cross-border environmental damage and then discusses the bases for claims connected to this in German and Polish private law.

Mertens, Jens M.

Privatrechtsschutz und vertikale Integration im internationalen Handel



Volume 268
2011. XIII, 268 pages.

ISBN 9783161509599
sewn paper 59,00 €

ISBN 9783161517709
eBook PDF 59,00 €

Dealing with the significance of legal protection under private law for competitive market structures, Jens Mertens focuses on a subject which has been receiving increasingly less attention in current competition policies due to the »more economic approach.«

Kosche, Kevin

Contra proferentem und das Transparenzgebot im Common Law und Civil Law

Eine rechtsvergleichende, rechtshistorische und rechtsökonomische Analyse

Volume 267
2011. XXXVI, 700 pages.

ISBN 9783161508844
sewn paper 109,00 €

ISBN 9783161517693
eBook PDF 109,00 €

Kevin Kosche provides a comprehensive interdisciplinary analysis of contra proferentem in Anglo-American and continental European law. In doing so, he focuses on a description of the contract interpretation method in US law. In addition he does the first study from the perspective of legal history and comparative law on why, when and how the transparency requirement originated in German law. The author shows that due to the influence of the culpa in contrahendo there had been a transparency requirement before the war.

Koziol, Gabriele

Lizenzen als Kreditsicherheiten

Zivilrechtliche Grundlagen in Deutschland, Österreich und Japan

Volume 266
2011. XV, 179 pages.

ISBN 9783161509162
sewn paper 49,00 €

ISBN 9783161514500
eBook PDF 49,00 €

Given its economic importance, there is an increasing need to use intellectual property as collateral to obtain credit. In her comparative study, Gabriele Koziol analyzes key issues involved in using intellectual property licenses as collateral under German, Austrian and Japanese law.

Weber, Johannes

Gesellschaftsrecht und Gläubigerschutz im Internationalen Zivilverfahrensrecht

Die Internationale Zuständigkeit bei Klagen gegen Gesellschafter und Gesellschaftsorgane vor und in der Insolvenz

Volume 265
2011. XXIV, 567 pages.

ISBN 9783161509148
sewn paper 99,00 €

ISBN 9783161517686
eBook PDF 99,00 €

Which court may claim international jurisdiction when it comes to the enforcement of creditor protection in corporations? Against the background of German and English substantive law, Johannes Weber analyzes this question in the context of EU international civil procedure.

Meeßen, Gero

Der Anspruch auf Schadensersatz bei Verstößen gegen EU-Kartellrecht – Konturen eines Europäischen Kartelldeliktsrechts?

Volume 264
2011. XXII, 659 pages.

ISBN 9783161507373
sewn paper 109,00 €
ISBN 9783161514494
eBook PDF 109,00 €

The liability for breach of EU Competition Law is subject to vivid political debate. Whereas the Commission held that this area of the law in the Member States presented a »picture of total underdevelopment«, recent case survey shows a remarkable increase in number and scope of private antitrust damages litigation. Gero Meeßen, while Member of the Bundeskartellamt's General Policy Division closely involved in the discussion at European level, investigates the foundations, conditions and extent of the claim in damages for breach of EU competition law in Germany, England and France and examines their compatibility with the requirements of EU primary law. Against the background of his findings, the author scrutinizes Directorate General for Competition's far-reaching proposals for a redesign of the law on antitrust damages actions.

Trautmann, Clemens

Europäisches Kollisionsrecht und ausländisches Recht im nationalen Zivilverfahren

Volume 263
2011. XXVIII, 483 pages.

ISBN 9783161504839
sewn paper 94,00 €
ISBN 9783161514487
eBook PDF 94,00 €

The europeanisation of private international law is supposed to ensure that the same national law applies to a given case irrespective of the Member State in which an action is brought. Clemens Trautmann shows to which extent the heterogeneous procedural rules of the Member States for the application and ascertainment of foreign law conflict with this objective and provides a critical analysis of their compatibility with European Union law.

Rybarz, Jonas C.

Billigkeitserwägungen im Kontext des Europäischen Privatrechts

Volume 262
2011. XXI, 210 pages.

ISBN 9783161508189
sewn paper 54,00 €
ISBN 9783161514470
eBook PDF 54,00 €

Jonas C. Rybarz exposes general unwritten principles of civil law in the European Union. In the future, his findings will contribute to achieving results in individual cases in the context of European private law as well, results which are compatible with the national concepts of equity.

Netzer, Felix

Status quo und Konsolidierung des Europäischen Zivilverfahrensrechts

Vorschlag zum Erlass einer EuZPO

Volume 261
2011. XXI, 306 pages.

ISBN 9783161508288
sewn paper 64,00 €
ISBN 9783161514463
eBook PDF 64,00 €

A vast number of new legal instruments in European civil procedure law have improved cross-border enforcement of claims. Felix Netzer compares the procedures and the problems in applying the regulations and develops a reform proposal – a European regulation of civil procedure which systematizes the current *acquis communautaire* and makes the additions required in order to facilitate the application of the law.

Abbas, Raya

Die Vermögensbeziehungen der Ehegatten und nichtehelichen Lebenspartner im serbischen Recht

Eine Untersuchung des Sach- und Kollisionsrechts unter Berücksichtigung der Staatensukzession im IPR



Volume 260
2011. XXI, 297 pages.

ISBN 9783161508479
sewn paper 64,00 €

ISBN 9783161514456
eBook PDF 64,00 €

The collapse of the former Yugoslavia and the reforms associated with it in the successor states led to problems in the application of the law. In her comparative study, Raya Abbas examines the new marital property law in Serbia as well as the problem of state succession in private international law, which has become relevant for establishing the marital property regime of former Yugoslavian citizens.

Reuß, Philipp M.

»Forum Shopping« in der Insolvenz

Missbräuchliche Dimension der Wahrnehmung unionsrechtlicher Gestaltungsmöglichkeiten

Volume 259
2011. XXIII, 417 pages.

ISBN 9783161508196
sewn paper 79,00 €

ISBN 9783161514449
eBook PDF 79,00 €

Exerting influence on the international jurisdiction of a court (forum shopping) and abuse of law often go hand in hand. Philipp Reuß deals with the admissibility of forum shopping attempts by debtors in cross-border insolvency proceedings. He analyses the theoretical foundations and describes the validity as well as the specific prerequisites of a prohibition of abuse of law principle in European insolvency law; an instrument which (at least partially) can be put in place against structures which are detrimental to the single market.

Heinz, Nina

Das Vollmachtsstatut

Eine einheitliche Kollisionsnorm für Europa

Volume 258
2011. XXIII, 264 pages.

ISBN 9783161507694
sewn paper 54,00 €

ISBN 9783161514432
eBook PDF 54,00 €

The use of agents is fundamental for cross-border legal relations. However, up to now there has been no uniform conflict of law rule in the European Union to determine the law applicable to voluntary agency. Nina Heinz does a representative study of the Member States' legal orders and international harmonization projects in order to develop her own regulation proposal with the help of conflict of laws methodology.

Lamsa, Michael

Die Firma der Auslandsgesellschaft

Bildung, Führung und Schutz der Firma von Auslandsgesellschaften in Deutschland unter besonderer Berücksichtigung des Europäischen Gemeinschaftsrechts

Volume 257
2011. XXXIV, 560 pages.

ISBN 9783161506482
sewn paper 99,00 €

ISBN 9783161514425
eBook PDF 99,00 €

The conflict of law rules applicable to companies, partnerships and other business enterprises are currently in the process of reorientation due to numerous decisions handed down by the ECJ. Michael Lamsa examines which law should be applied to the formation, use and protection of the (registered) name of foreign business enterprises, focusing on the specifications of primary and secondary European Community law. He demonstrates that the overlaying application of substantive German corporate law principles to the name of a foreign business enterprise does not infringe on European Community law.



Schmehl, Christine

Parallelverfahren und Justizgewährung

Zur Verfahrenskoordination nach europäischem und deutschem Zivilprozessrecht am Beispiel taktischer »Torpedoklagen«

Volume 256
2011. XVIII, 424 pages.

ISBN 9783161507779
sewn paper 74,00 €

ISBN 9783161514418
eBook PDF 74,00 €

First and foremost, »torpedo actions« delay the legal action of the opposing party. Can or must these procedural tactics be prevented? How does this fit in with the right to the granting of justice? Christine Schmehl examines the issues pertaining to the coordination of parallel proceedings in European and German law.

Micha, Marianne

Der Direktanspruch im europäischen Internationalen Privatrecht

Das kollisionsrechtliche System des Art. 18 Rom II-VO vor dem Hintergrund des materiellen Rechts der Mitgliedsstaaten

Volume 255
2010. XXII, 256 pages.

ISBN 9783161506963
sewn paper 59,00 €

ISBN 9783161514401
eBook PDF 59,00 €

The question of which law is applicable when an injured party takes action against the liability insurance of his (foreign) tortfeasor arises in connection with motor vehicle liability insurance and with other compulsory and voluntary liability insurances as well. Based on comparative law, Marianne Micha develops a conflict of laws system for Art. 18 of the Rome II Regulation that provides differentiated solutions for the various types of liability insurance.

Salewski, Sabrina

Der Verkäuferregress im deutsch-französischen Rechtsvergleich

When implementing a right of redress for the final seller in transposition of the Consumer Sales Directive 1999/44/EC, Germany and France took different approaches which Sabrina Salewski analyzes and compares in her study. The focus lies on the question of whether a direct claim against the producer should be introduced, following the example of the French *action directe*.

Volume 254
2011. XXIV, 348 pages.

ISBN 9783161507274
sewn paper 69,00 €

ISBN 9783161514395
eBook PDF 69,00 €

Mata Munoz, Almudena de la

Typical Personal Security Rights in the EU

Comparative Law and Economics in Italy, Spain and other EU Countries in the Light of EU Law, Basel II and the Financial Crisis

Volume 253
2010. XXXV, 330 pages.

ISBN 9783161506628
sewn paper 69,00 €

ISBN 9783161514388
eBook PDF 69,00 €

This volume offers an in-depth analysis of the current status of the law and legal practice of personal security rights in the EU. The impact of the financial crisis is specifically considered and the treatment of personal security rights in the *Basel II Accord* is critically addressed. While focusing on Italian and Spanish legal systems, this comparative study includes extensive references to other EU Member States. The influence of EU private law on this area is also explored. The implications of a harmonised regime for personal security rights in the EU are analysed both from an economic and a legal perspective. In this context, specific reference is made to the latest academic works and policy proposals for EU legal unification (*Principles of European Contract Law / Draft Common Frame of Reference*).



Maesch, Petja

Kodifikation und Anpassung des bulgarischen IPR an das Europäische Recht

Volume 252
2010. XVIII, 366 pages.

ISBN 9783161505409
sewn paper 74,00 €

ISBN 9783161514371
eBook PDF 74,00 €

On 21 May 2005, the Bulgarian code of private international law took effect, providing a comprehensive codification of Bulgarian private international law for the first time. Petja Maesch describes the old Bulgarian private international law, the changes as a result of codification and the conflict in its relationship with European private international law.

Weppner, Simon

Der gesellschaftsrechtliche Minderheitenschutz bei grenzüberschreitender Verschmelzung von Kapitalgesellschaften

Eine Untersuchung zum Spruchverfahrensrecht unter besonderer Berücksichtigung internationalzivilverfahrensrechtlicher Aspekte

Volume 251
2010. XXIV, 233 pages.

ISBN 9783161506581
sewn paper 59,00 €

ISBN 9783161514364
eBook PDF 59,00 €

The protection of minorities by corporate law in cross-border mergers was not standardized by the Societas Europaea Regulation and the Merger Directive. Simon Weppner studies the consequences of this for the enforcement of claims for additional and cash payments in the award proceedings (Spruchverfahren) from the perspective of the international law of civil procedure.

Schubel, Joanna

Gestaltungsfreiheit und Gestaltungsgrenzen im polnischen Vertragskonzernrecht

Volume 250
2010. XXV, 567 pages.

ISBN 9783161502439
sewn paper 99,00 €

ISBN 9783161514357
eBook PDF 99,00 €

Membership in the European Union has prompted the Eastern Middle European states to reform their corporate laws, and these reforms also include the creation of modern laws concerning groups of companies. Joanna Schubel studies the company law relating to groups in the Polish Commercial Code (KSH) from the year 2000 and the Hungarian law regulating to groups of companies from the year 2006. She shows national and international groups of companies how to give their relationships legal security, taking into account the various group strategies. In order to ensure this security, the author recommends the conclusion of a contract, and makes suggestions on how to do this. The description given of Polish and Hungarian law demonstrates how the German corporate group law could be developed.

Oertel, Christoph

Objektive Haftung in Europa

Rechtsvergleichende Untersuchung zur Weiterentwicklung der verschuldensunabhängigen Haftung im europäischen Privatrecht

Volume 249
2010. XXIV, 363 pages.

ISBN 9783161502705
sewn paper 74,00 €

ISBN 9783161514340
eBook PDF 74,00 €

Objective liability is liability without fault of the injuring party as a requirement for the obligation to pay damages. The legal situation in this area is extremely inconsistent in European private law, and the discussion about this subject is one of the unsolved questions of tort law. Christoph Oertel studies the scope and the reasons for introducing and developing rules of objective liability in Europe. After giving a critical analysis of recent suggestions from comparative law, he looks at what issues must be taken into consideration when drafting European principles of objective liability.



Hawellek, Jeronimo

Die persönliche Surrogation

Eine vergleichende Untersuchung von Rechtsübergängen zu Regresszwecken in Deutschland, Spanien und England

Volume 248
2010. XXIV, 463 pages.

ISBN 9783161502675
sewn paper 89,00 €
ISBN 9783161514333
eBook PDF 89,00 €

Personal subrogation can be found in all the large European legal systems, but its systematic integration into the civil law of Germany, England and Spain differs considerably. Jeronimo Hawellek analyzes this remedy in all three countries and shows that in spite of systematic differences the legal consequences remain similar, with the exception of the British simple subrogation, which is a kind of representative action. The author studies the priorities in decisions regarding points of substance, showing that these are the protection of the debtor and the goal of enforcing the subsidiarity of subordinate claims.

Henke, Matthias Felix

Enthält die Liste des Anhangs der Klauselrichtlinie 93/13/EWG Grundregeln des Europäischen Vertragsrechts?

Volume 247
2010. XIX, 209 pages.

ISBN 9783161503603
sewn paper 59,00 €
ISBN 9783161514326
eBook PDF 59,00 €

Binding and universally accepted basic rules are the prerequisites for the creation of a uniform European contract law. Using the list in the annex of the Council Directive on unfair terms in consumer contracts, Matthias Felix Henke provides a sample of those principles of European contract law which already exist and which can be used for further research.

Moser, Dominik

Die Offenkundigkeit der Stellvertretung

Eine Untersuchung zum deutschen und englischen Recht sowie zu den internationalen Regelungsmodellen

Volume 246
2010. XXXII, 518 pages.

ISBN 9783161502798
sewn paper 94,00 €
ISBN 9783161514319
eBook PDF 94,00 €

Without the concept of agency, an economy based on the division of labor would not be possible. The Principles of European Contract Law, the Unidroit Principles of International Commercial Contracts and the Draft Common Frame of Reference have each made separate proposals for harmonizing the regulations pertaining to agency. Dominik Moser studies these regulatory models, exploring the extent to which the existence of an agency relationship must be revealed to the other party and the legal consequences of that agency. The author bases his study on the law in Germany, representing the continental European legal tradition, and the law in England, as a representative of the common law. He then compares the proposals for regulations, evaluating them according to their potential to solve practical legal problems while still balancing the interests of all the parties concerned.

Klein, Jean-Philippe

Die Unwirksamkeit von Verträgen nach französischem Recht

Eine konzeptionelle Untersuchung unter besonderer Berücksichtigung der Rechtsgeschichte

Volume 245
2010. XIX, 401 pages.

ISBN 9783161499746
sewn paper 74,00 €
ISBN 9783161514302
eBook PDF 74,00 €

The invalidity of contracts has fascinated French lawyers for centuries. Jean-Philippe Klein analyzes why the invalidity of contracts is considered as one of the most obscure subjects in French law. The thesis encompasses 2000 years of the history of the invalidity of contracts and provides a thorough analysis of invalidity-related French case law. The author summarizes the conclusions of his work in final arguments. In an annex, he also evaluates the provisions relating to invalidity in the draft revision of the Code Civil («Avant-projet Catala») as well as in the French draft of the second edition of the «Lando Principles.»



Primaczenko, Vladimir

Treuhänderische Vermögensverwaltung nach russischem Recht

Volume 244
2010. XX, 356 pages.

ISBN 9783161503344
sewn paper 74,00 €

ISBN 9783161514296
eBook PDF 74,00 €

In the second part of the 1996 Russian civil code there is a detailed regulation of property trust management. It provides a new type of contract, for which there had not been any models in Tsarist or in Soviet law. In his work, Vladimir Primaczenko shows the development of property trust management from a historical and comparative legal perspective, describes its basic structures and explains how these are dealt with in enforcement law, insolvency law and the conflict of laws provisions.

Bischoff, Jan Asmus

Die Europäische Gemeinschaft und die Konventionen des einheitlichen Privatrechts

Volume 243
2010. XXVII, 465 pages.

ISBN 9783161503092
sewn paper 89,00 €

ISBN 9783161514289
eBook PDF 89,00 €

The increasing harmonization of private law in the European Union calls for an examination of the relationship between EU private law and the classical uniform private law conventions. Jan Asmus Bischoff compares the different development of uniform private law with that of EU private law in order to show the possible conflicts and synergies. Bearing this in mind, he analyzes the legal effects of the uniform private law conventions of the Union itself and of the Member States on the EU legislator and judiciary. The author shows that under the current state of the law the treatment of the Community by uniform law conventions on the one hand and the distribution of competences between the Community and the Member States tend to lead to conflicts that will endanger legal certainty in international legal relations.

Meckel, Verena

Die Corporate Governance im neuen japanischen Gesellschaftsrecht

Unter besonderer Berücksichtigung der Aufgaben von Verwaltungs- und Prüferat

Volume 242
2010. XXII, 222 pages.

ISBN 9783161503801
sewn paper 59,00 €

ISBN 9783161514272
eBook PDF 59,00 €

Corporate governance in Japan – since the reform of corporate law in 2005/2006, this has meant more emphasis on external and independent directors and auditors. In the opinion of Verena Meckel, this has resulted in a discrepancy with the Japanese consensus-driven mentality. Codified law is not synonymous with legal reality.

Leifeld, Janis

Das Anerkennungsprinzip im Kollisionsrechtssystem des internationalen Privatrechts

Volume 241
2010. XXI, 240 pages.

ISBN 9783161504167
sewn paper 59,00 €

ISBN 9783161514265
eBook PDF 59,00 €

Due to the increasing liberality within the European Union, the question arises as to whether the status conferred by a Member State (marriage, civil union, name) has to be recognized by the other states of the European Union. In his work, the author affirms this question and explores how the principle of recognition flowing from the fundamental freedoms can be implemented in the system of conflict of laws.

Brieskorn, Konstanze

Vertragshaftung und responsabilité contractuelle

Ein Vergleich zwischen deutschem und französischem Recht mit Blick auf das Vertragsrecht in Europa



Volume 240
2010. XIX, 488 pages.

ISBN 9783161501272
sewn paper 89,00 €
ISBN 9783161514258
eBook PDF 89,00 €

Contractual liability is one of the most important parts of contract law and has undergone some recent reforms in the national law systems. Contractual liability is also the focus of European contract law. In this study, Konstanze Brieskorn analyzes the main issues from a comparative point of view, dealing with French, German and European contract law. In the first chapter, the author compares the different conditions necessary for claiming contractual damages within French, German and European contract law. The second chapter deals with the right to compensation following the violation of contractual obligations.

Gössl, Ulrich

Die Satzung der Europäischen Aktiengesellschaft (SE) mit Sitz in Deutschland

Volume 239
2010. XXIV, 353 pages.

ISBN 9783161500244
sewn paper 69,00 €
ISBN 9783161514241
eBook PDF 69,00 €

The European company (Societas Europaea) is a relatively young supranational company with share capital which has become increasingly popular in Germany due to its practicality. It is not only the large companies such as Allianz, BASF and Porsche but also medium-sized companies as well which have decided to adopt this new legal form. The statutes of the SE define the essential structural characteristics of the company. After dealing with the applicable law, Ulrich Gössl analyzes the statutes of a European company with its registered office in Germany. In addition to formal questions, for example with regard to the enactment and the amendment of the statutes, he presents a comprehensive analysis of the latitude provided by the SE statutes.

Magnus, Robert

Das Anwaltsprivileg und sein zivilprozessualer Schutz

Eine rechtsvergleichende Analyse des deutschen, französischen und englischen Rechts

Volume 238
2010. XXX, 322 pages.

ISBN 9783161501821
sewn paper 69,00 €
ISBN 9783161514234
eBook PDF 69,00 €

The confidential relationship between lawyer and client is essential if the lawyer is to protect the client's interests competently. If the lawyer wants to act effectively on behalf of his client in civil proceedings, he will require all the necessary information which has to be given to him mainly by his client. The client will of course only give him this information if he can rely on the fact that his lawyer will not misuse this information or cannot be forced to disclose it. Thus the lawyer must have the right to withhold this information. In a study of comparative law, Robert Magnus examines the scope and the limitations of legal professional privilege in Germany, France and England. His conclusion is that in a comparison with the laws of other nations the German regulations seem to be rather flimsy and are in need of a critical analysis.

Bernitt, Carmen Christina

Die Anknüpfung von Vorfragen im europäischen Kollisionsrecht

Volume 237
2010. XXII, 261 pages.

ISBN 9783161502651
sewn paper 59,00 €
ISBN 9783161514227
eBook PDF 59,00 €

The European Union is on its way to establishing a completely harmonized private international law. In January 2009, the Rome II Regulation took effect as the first of several regulations containing provisions concerning the special part of private international law. However, a uniform application of these provisions will only be assured if the member states of the EU also agree on how to solve problems of the general part of private international law. Carmen Christina Bernitt analyzes the highly disputed issue of preliminary questions and shows how the specifics of a European private international law influence the problem of preliminary questions. She proposes a uniform solution and verifies this by examining several preliminary questions which will arise with the application of the Rome II Regulation.

Maurer, Tobias

Schuldübernahme

Französisches, englisches und deutsches Recht in europäischer Perspektive

Volume 236
2010. XXXII, 341 pages.

ISBN 9783161501159
sewn paper 69,00 €
ISBN 9783161514210
eBook PDF 69,00 €

The assumption of obligations is one of the most difficult topics in the general part of the law of obligations. This is due in particular to the fact that there are three parties involved in the assumption of an obligation. In this context there are two particular questions: Can the obligation be assumed and at the same time preserve its identity in accordance with the German law of succession, or does the obligation have to be created anew? What is the role of each of the three parties involved in the transaction? This practical aspect of the assumption has to be coordinated with the various assessments, the most important being the assessment of the objections to be enforced by the person assuming the obligation as well as the fate of the securities. Tobias Maurer examines the problem from an historical and comparative perspective against the background of a forthcoming unification of European private law.



Giesen, Reinhard

Die Anknüpfung des Personalstatuts im norwegischen und deutschen internationalen Privatrecht

Volume 235
2010. XXV, 350 pages.

ISBN 9783161501258
sewn paper 69,00 €

ISBN 9783161514203
eBook PDF 69,00 €

German private international law is characterized by an increasing withdrawal from the principle of nationality, and the international law of natural persons, family law and the law of succession are in a phase of development in Europe. The Norwegian experiences with linking this to the place of domicile, similar to the Anglo-Saxon principle of domicile, are noteworthy, and in view of the future developments in Europe, for which the principle of nationality is not suitable as a basis, they can be helpful. Reinhard Giesen describes the Norwegian system by drawing on rules and cases along with the typical Scandinavian legal realist approaches of Norwegian jurists and provides a unique insight into a legal system which in spite of its proximity is still quite foreign to German jurists.

Lüttringhaus, Jan D.

Grenzüberschreitender Diskriminierungsschutz – Das internationale Privatrecht der Antidiskriminierung

Volume 234
2010. XXV, 449 pages.

ISBN 9783161502446
sewn paper 79,00 €

ISBN 9783161514197
eBook PDF 79,00 €

Discrimination often occurs in cross-border contracts. It is in this setting that different cultures and concepts as to (e.g. gender and racial) equality collide. Thus, transnational protection against discrimination raises numerous questions – in particular with regard to international labor and insurance contracts. Jan D. Lüttringhaus endeavors to provide answers on the basis of European private international law. He examines the area of international contract law as well as transnational protection against discrimination in corporate bodies. Given that some EU Member States impose further sanctions under criminal and administrative law, the author outlines the conflicts between public and private cross-border enforcement of non-discrimination laws.

Lenhard, Anselm

Die Vorschläge zur Reform des englischen Mobiliarkreditsicherungsrechts

Ein Wegweiser für eine europäische Harmonisierung?

Volume 233
2010. XXVIII, 391 pages.

ISBN 9783161500572
sewn paper 74,00 €

ISBN 9783161514180
eBook PDF 74,00 €

The present divergence of national security systems in combination with the *lex rei sitae* rule of private international law results in a risk for creditors of losing their security in cross-border situations. This current state of affairs does not seem to be compatible with the idea of a fully effective internal market in the European Union. Using this problem as a basis for his study, Anselm Lenhard analyzes the current English law of personal property security and the proposals for its reform along the lines of Article 9 of the Uniform Commercial Code in the USA. In comparing the English reform proposals with work done by the European Bank for Reconstruction and Development and UNCITRAL, the author outlines fundamental features of future European harmonization efforts in the area of personal property security law.

Rohde, Kerstin

Haftung und Kompensation bei Straßenverkehrsunfällen

Eine rechtsvergleichende Untersuchung nach deutschem und neuseeländischem Recht

Volume 232
2009. XXI, 416 pages.

ISBN 9783161502415
sewn paper 79,00 €

ISBN 9783161514173
eBook PDF 79,00 €

Traffic accidents are one of the »necessary evils« in modern life. In order to deal with the often non-reversible situation created by such accidents, lawmakers had to come up with approaches to ensure the compensation for injuries and damage caused by these accidents. The New Zealand legislator took a unique approach by creating the *Accident Compensation Scheme* as a measure to ensure the compensation for personal injuries caused by an accident. The German legislator, however, relies on a system combining strict liability with a compulsory third party liability insurance for motor vehicles. Kerstin Rohde provides an analysis of the differences and similarities between the approaches taken by the German and the New Zealand legislator concerning the conditions of entitlement to damages, the amount of damages and benefits possible and the enforcement of an entitlement under these two systems.

Seibl, Maximilian

Die Beweislast bei Kollisionsnormen



Volume 231
2009. XXI, 385 pages.

ISBN 9783161501814
sewn paper 74,00 €
ISBN 9783161514166
eBook PDF 74,00 €

Maximilian Seibl deals with the burden of proof in respect to German and European private international law provisions, more specifically with the question as to how a »non liquet« situation can be solved and what consequences for the parties of a lawsuit result from this. The problem derives from the structure of private international law provisions which establish a connection between the facts of the case and the applicable law by the so-called »connecting factor«. In many cases one party claims the existence of a certain connecting factor pointing to a specific legal system whereas the other party denies this connection and alleges the applicability of another legal system based on the same connecting factor; if it remains uncertain whether the connecting factor actually points to the one or the other legal system, it is indispensable to find a solution. As the connecting factor usually features an open character – i.e. it can establish a connection with every existing legal system on principle – whereas substantive law provisions only distinguish between the existence and the non-existence of certain facts, the conventional principles of the burden of proof must be modified. The book offers a differentiated solution to this problem that keeps the connection with those principles but also takes the private international law and the respective procedural implications into consideration.

Schreier, Michael

Schutz vor willkürlichen und diskriminierenden Entlassungen

Eine rechtsvergleichende Untersuchung zum Recht von Deutschland und British Columbia

Volume 230
2009. XXV, 397 pages.

ISBN 9783161502309
sewn paper 79,00 €
ISBN 9783161514159
eBook PDF 79,00 €

Protection against dismissal is one of the main topics which repeatedly sparks discussions in politics and academia. Whereas on the one hand many people advocate maintaining the current protection against dismissals, there is on the other hand a discussion in Germany about relaxing or even abolishing this protection. There are similar controversial discussions pertaining to the anti-discrimination law. Based on comparative law, Michael Schreier studies the conflicting approaches, focusing on the protection against arbitrary and discriminatory dismissals. The author shows the differences and similarities between Canada, using British Columbia as an example, and Germany and, based on this, provides recommendations for the law pertaining to the protection against dismissal and the general anti-discrimination law for German lawmakers.

Henke, Johannes

Effektivität der Kontrollmechanismen gegenüber dem Unternehmensinsolvenzverwalter

Eine Untersuchung des deutschen und englischen Rechts

Volume 229
2009. XVII, 209 pages.

ISBN 9783161501982
sewn paper 54,00 €
ISBN 9783161514142
eBook PDF 54,00 €

Cases of abuse and breach of trust in insolvency proceedings, increasing competition among insolvency practitioners, the creditors' relatively low participation in the proceedings as well as the increasing relocation of insolvency proceedings to other countries (mainly to England) are burning issues. These facts have prompted Johannes Henke to study the effectiveness of control mechanisms applied to the corporate insolvency practitioners. He analyzes German and English law with reference to the selection and the supervision of the corporate insolvency practitioner. In his comparative study, the author deals with the reform efforts of both legal systems and draws conclusions for improving the practice of insolvency law in Germany.

Böger, Ole

System der vorteilsorientierten Haftung im Vertrag

Gewinnhaftung und verwandte Haftungsformen anhand von Treuhänder und Trustee

Volume 228
2009. XXXIX, 1143 pages.

ISBN 9783161500077
sewn paper 124,00 €
ISBN 9783161514135
eBook PDF 124,00 €

In the area of gain-based damages, i.e. liability based upon the debtor's gains rather than the creditor's losses, the German legal discussion was traditionally focused on extra-contractual liability, especially in the area of intellectual property law. Ole Böger describes the system of gain-based damages in German contract law. He analyzes the underlying principles behind well-known examples of these claims and differentiates between three sub-types, each of which fulfils different purposes such as deterrence or avoidance of under-compensation. The analysis in this study and its attempt to close existing gaps in German contract law are supported by extensive references to English law, especially with regard to the fiduciary liability of trustees and to ongoing developments and discussions on topics such as restitutionary liability for breach of contract, efficient breach of contract and disgorgement damages.

Janköster, Jens P.

Fluggastrechte im internationalen Luftverkehr

Verspätung von Fluggästen, Überbuchung und Annullierung von Flügen

Volume 227
2009. XVIII, 375 pages.

ISBN 9783161500381
sewn paper 69,00 €

ISBN 9783161514128
eBook PDF 69,00 €

The increasing volume of air traffic has led to more and more passenger delays as well as overbooking and the cancellation of flights. In this regard Jens Peter Janköster analyzes the claims of air passengers against the contracting carrier. To determine the scope of the application of uniform international law as well as European and national law he focuses on the frequently assumed fixed-date character of the air transport contract and the significance of the flight number for the air carrier's obligation to provide transport. All in all, the author has developed a stable dogmatic structure which should enable mainly case law to find »just« solutions for both the air carrier and the passengers.

Schmidt, Jan Peter

Zivilrechtskodifikation in Brasilien

Strukturfragen und Regelungsprobleme in historisch-vergleichender Perspektive

Volume 226
2009. XXXII, 607 pages.

ISBN 9783161501265
sewn paper 89,00 €

ISBN 9783161514111
eBook PDF 89,00 €

As Brazilian private law has so far been largely neglected by mainstream comparative law, Jan Peter Schmidt embarks upon an in-depth study of the new Civil Code from 2002. After a historical introduction, he deals mainly with general questions such as the scope and structure of the new Code and the space it leaves for judicial discretion, but also analyzes specific provisions that are noteworthy from a comparative point of view. The picture is completed with frequent references to the »law in action« and the historical and social background. Apart from showing that Brazilian private law is firmly rooted in the civil law tradition, the book offers many insights into modern techniques of private law codification which might also prove useful for the European context.

Spelsberg-Korspeter, Ullrich

Anspruchskonkurrenz im internationalen Privatrecht

Ein Beitrag zur Diskussion um die akzessorische Anknüpfung

Volume 225
2009. XX, 171 pages.

ISBN 9783161501531
sewn paper 54,00 €

ISBN 9783161514104
eBook PDF 54,00 €

In most cases there is more than one cause of action which provides for legal consequences that are generally apt to support the plaintiff's claim. Thus every legal system contains – mostly unwritten – rules according to which the judge has to decide to what extent different causes of action can be accumulated for the plaintiff's benefit. If the basis for claims from different legal systems intersect, some of these rules may contradict each other. Ullrich Spelsberg-Korspeter examines how to deal with the risk presented by these contradictions. Based on his evaluation, which includes the new Rome II regulation, the author provides a critical assessment of the method of the accessory connecting factor rule frequently advocated in professional literature.

Henninger, Thomas

Europäisches Privatrecht und Methode

Entwurf einer rechtsvergleichend gewonnenen juristischen Methodenlehre

Volume 224
2009. XXXII, 496 pages.

ISBN 9783161514098
eBook PDF 79,00 €

As a consequence of the current Europeanization of private law, the concept of a European method of interpretation is of considerable interest. Several study groups have been involved in the development of common principles for European private law, but they have scarcely dealt with legal methods. Thomas Henninger analyzes the common principles of legal methods in Europe from the perspective of comparative law. In the descriptive section of his book, he shows the legal methods established by law, jurisprudence and legal doctrine in the most important countries in Europe and by the European Court of Justice. In a normative section, he compares the different legal methods in Europe, makes suggestions for common legal principles of a European legal method and shows ways in which to improve the current legal methods in Europe. In doing so, he focuses on a comparison of the methods of civil law in continental Europe and the methods of English case law. The author thus provides an introduction to legal methods in Europe and contributes to the discussion about the future of European private law.



Häcker, Birke

Consequences of Impaired Consent Transfers

A Structural Comparison of English and German Law

Volume 223
2009. XXII, 386 pages.

ISBN 9783161497902
sewn paper 74,00 €

ISBN 9783161514081
eBook PDF 74,00 €

Birke Häcker explores the English and German law on impaired consent transfers of movable property and their reversal in comparative perspective, paying particular attention to the interaction – within each legal system – between the rules and principles of contract law, property law, and the law of unjust(ified) enrichment. In two-party situations, the author focuses on the relationship between contract and conveyance and the closely related question of the transferor's position in the event of the transferee's insolvency. While German law resolves these issues by reference to the well-established principles of separation and abstraction, the relevant English law is still unsettled. The author argues for a generalized power model of so-called 'proprietary restitution' and seeks to demonstrate that conveyances by delivery are best regarded as abstract in English as well as in German law, but explains why English law nevertheless lacks the gist of abstraction à la BGB. Building on this analysis, the author then goes on to examine three-party situations. She looks first at the position of third parties who have acquired the object in question before the transferor has had a chance to reclaim it (raising issues of *bona fide* purchase and 'leapfrogging') and thereafter at the extent to which the transferor can assert rights to the object's traceable substitutes. As far as English law is concerned, the author shows that the supposed 'third party rights bar to rescission' is not only unnecessary, but misconceived, and that it ought to be abolished.

Klingel, Katharina

Die Principles of European Law on Personal Security als neutrales Recht für internationale Bürgschaftsverträge

Ein Vergleich mit dem französischen und dem deutschen Recht

Volume 222
2009. XXVIII, 346 pages.

ISBN 9783161500541
sewn paper 69,00 €

ISBN 9783161514074
eBook PDF 69,00 €

Within the framework of plans of the European Commission to work out a Common Frame of Reference for contract law, the Study Group on a European Civil Code prepared proposals for uniform rules on personal security on the basis of comparative studies of the laws of the member states of the European Union. The Principles of European Law on Personal Security are meant to be eligible as an alternative set of rules before national and arbitral courts. Katharina Klingel discusses whether and to what extent the Principles meet the needs of participants in the European Common Market (for example enterprises and consumers) as the basis for international suretyships. The discussion is based on a comparison of the Principles with German and French law.

Steinbrück, Ben

Die Unterstützung ausländischer Schiedsverfahren durch staatliche Gerichte

Eine rechtsvergleichende Untersuchung des deutschen, österreichischen, englischen, schweizerischen, französischen und US-amerikanischen Schiedsrechts

Volume 221
2009. XXX, 536 pages.

ISBN 9783161500060
sewn paper 89,00 €

ISBN 9783161514067
eBook PDF 89,00 €

Effective legal protection in arbitration proceedings may depend on supportive measures taken by state courts, for example in the context of gathering evidence. Unlike many other legal systems, German arbitration law does permit these supportive measures also in aid of foreign arbitration proceedings. In doing so, it has proven to be an international pioneer in this respect, since there are no state treaties which regulate international legal assistance for the benefit of private arbitration proceedings. Ben Steinbrück analyzes the cooperation between national courts and foreign arbitral tribunals and demonstrates why and in which cases cross-border judicial assistance is required.

Bitter, Anna-Kristina

Vollstreckbarerklärung und Zwangsvollstreckung ausländischer Titel in der Europäischen Union

Volume 220
2009. XX, 258 pages.

ISBN 9783161499388
sewn paper 54,00 €

ISBN 9783161514050
eBook PDF 54,00 €

Anna-Kristina Bitter deals with a topic which is of current interest but which had received little attention until now. In this work, she describes the declaration of enforceability under the Brussels I Regulation and illustrates the problems in terms of enforcing foreign judgements in Member States. It is the enforcement authorities of the Member States in particular who need to know if the Brussels I Regulation obligates them to enforce a foreign judgement. This can cause practical difficulties if the state of origin refuses to enforce the judgement or has chosen a different way of execution. The author also deals with the question of whether or not German authorities can enforce a German judgement which refers to another Member State, for example when a legally justifiable action has to be performed in another country.



Laimer, Simon

Durchführung und Rechtsfolgen der Vertragsaufhebung bei nachträglichen Erfüllungstörungen

Volume 219
2009. XX, 280 pages.

ISBN 9783161499159
sewn paper 64,00 €

ISBN 9783161514043
eBook PDF 64,00 €

In his discussion of the termination of contract, Simon Laimer deals with a major legal remedy in the case of contractual non-performance. He compares Italian, German and Austrian law of obligations as well as the UN Sales Convention and includes recent unification projects (PECL, PICC, PESL) as well as the recently published Draft Common Frame of Reference. After evaluating the various rules applying a consequences-based approach, he derives criteria for a possible unified European regulation. The author begins by examining the nature and the form of procedures for termination in the case of non-performance of contract. He then analyzes the legal consequences of a legally effective termination, in particular the dispensation from the obligation to perform the contract, the restitution as well as the liability in the case of non-performance of restitutionary obligations.

Funken, Katja

Das Anerkennungsprinzip im internationalen Privatrecht

Perspektiven eines europäischen Anerkennungskollisionsrechts für Statusfragen

Volume 218
2009. XXVIII, 400 pages.

ISBN 9783161499395
sewn paper 74,00 €

ISBN 9783161514036
eBook PDF 74,00 €

Since the decisions made by the European Court of Justice in the cases of *Garcia Avello* and *Grunkin & Paul*, there has been a lively discussion in the literature of private international law on the recognition of civil and marital status within the European Union. There is also some talk of replacing traditional private international law with a basic recognition principle in European law. Katja Funken studies the extent to which European law, in particular the ban on discrimination and the freedom of movement, calls for a principle of mutual recognition in questions of status and asks whether or not mutual recognition as one of several possible methods of achieving the predetermined goal has to face the competition with other methods of private international law. On this basis, she studies whether it would be desirable to establish a recognition system for civil status in the entire European Union, and what the prerequisites for this would be.

Kroymann, Benjamin

Das Kapitalgesellschaftsrecht der VR China

Analyse der Rahmenbedingungen für ausländische Investoren

Volume 217
2009. XXVII, 445 pages.

ISBN 9783161498596
sewn paper 79,00 €

ISBN 9783161514029
eBook PDF 79,00 €

When investing in China, foreign entrepreneurs are confronted with a legal system that is fundamentally different from Western legal systems. China's WTO accession has triggered an overhaul of the legal framework for foreign investors, thereby strengthening the existing complexities even further. In view of these developments, Benjamin Kroymann analyzes the latest legal revisions in the field of foreign invested capital enterprises in China. After an introduction into the Chinese legal system and the legal framework for foreign investors, the author examines the different corporate structures available to foreign investors at the national and local level.

Trillmich, Philip

Klauselkontrolle nach spanischem Recht im Vergleich mit der Klauselrichtlinie 93/13/EWG

Volume 216
2009. XXII, 518 pages.

ISBN 9783161498435
sewn paper 79,00 €

ISBN 9783161514012
eBook PDF 79,00 €

Philip Trillmich deals with the implementation of the Council Directive on unfair terms in consumer contracts in Spanish law. Against the background of Spanish constitutional law and contract law as well as the history of Spanish law on unfair terms in consumer contracts, he describes in detail the statutory provisions of the Spanish act on standard contractual terms and the statutory provisions on unfair terms in consumer contracts in the Spanish consumer protection act and compares these provisions to the requirements of the Directive. The author focuses on Spanish case law and the consequences of the requirement to interpret Spanish law in conformity with Community law and assesses the extent to which Spanish law complies with the requirements of the Directive.

Gal, Jens

Die Haftung des Schiedsrichters in der internationalen Handelsschiedsgerichtsbarkeit



Volume 215
2009. XXII, 496 pages.

ISBN 9783161498138
sewn paper 79,00 €

ISBN 9783161514005
eBook PDF 79,00 €

It is an often repeated mantra – some might say a hackneyed phrase – that arbitration may only be as good as the arbitrators acting in it. In this context it has become of increasing importance if and to what extent an arbitrator may be held liable at least if he acted in clear misconduct. In his work, Jens Gal endeavours to create a feasible system of liability by comparing the legal situations under the laws of Austria, England, France, Germany, Switzerland and the United States of America. In doing so, special attention is given to the legal basis of any possible damage claim, i.e. the so-called *Schiedsrichtervertrag* (arbitrator's contract), to duties the breach of which might lead to liability, to the arbitrator's immunity from suit and to possibilities by which an arbitrator might further reduce his risk of being held liable.

Aukhatov, Adel

Durchgriffs- und Existenzvernichtungshaftung im deutschen und russischen Sach- und Kollisionsrecht

Volume 214
2009. XXI, 294 pages.

ISBN 9783161498855
sewn paper 64,00 €

ISBN 9783161513992
eBook PDF 64,00 €

As a result of the incorporation theory, national legal systems are being asked to provide domestic creditors adequate protection, the loss of which is threatened by the use of pseudo-foreign companies. If a foreign corporation is bankrupt, it could be worth considering whether or not its partners are personally liable for the obligations of this company in spite of the limitation on liability. On the basis of comparative law, Adel Aukhatov analyzes the basis of the problem of piercing the corporate veil and liability in existence-destroying intervention in substantive law and conflict of law as well as approaches to a solution in Germany and Russia.

In doing so, he questions whether domestic legal instruments of piercing the corporate veil and liability in existence-destroying intervention can be applied to foreign corporations with their administrative center in the country and how these can be applied in accordance with the conflict of laws and with European law.

Burkei, Felix

Internationale Handelsschiedsgerichtsbarkeit in Japan

Zustand und Perspektiven nach der Reform von 2004

Volume 213
2008. XXI, 271 pages.

ISBN 9783161498794
sewn paper 59,00 €

ISBN 9783161513985
eBook PDF 59,00 €

In the course of comprehensive reforms of its judicial system, Japan completely overhauled its arbitration law in 2004, bringing the legal framework into line with the global standards of the UNCITRAL model law. Focusing on international commercial arbitration, Felix Burkei analyzes the development of arbitral practice in Japan, as well as its obstacles, against the backdrop of Japanese legal mentality. He gives a detailed description of the arbitral proceedings, in particular the arbitration rules of the Japan Commercial Arbitration Association (JCAA), a description which includes the recognition and enforcement of arbitral awards, an important factor for foreign parties. Felix Burkei evaluates Japanese and international literature as well as the judgments of Japanese courts on arbitration law. Since the previous flaws in Japanese arbitration have largely been eliminated, he concludes with a positive assessment of the reform.

Hettenbach, Dieter

Das Übereinkommen der Vereinten Nationen über die Verwendung elektronischer Mitteilungen bei internationalen Verträgen

Volume 212
2008. XXIX, 334 pages.

ISBN 9783161498046
sewn paper 74,00 €

ISBN 9783161513978
eBook PDF 74,00 €

With the new »Convention on the Use of Electronic Communications in International Contracts,« the UN Commission on International Trade Law (UNCITRAL) is attempting to harmonize private international law for electronic commerce and to adapt existing conventions on private international law, for example the UN Sales Law, to the conditions of the Internet and other modern means of communication. Dieter Hettenbach describes the new convention, compares its provisions to existing law in Germany, the EC and the USA and in conclusion evaluates the importance of the new convention.

Stehl, Kolja

Die Überwindung der Inkohärenz des Internationalen Privatrechts der Bank- und Versicherungsverträge



Volume 211
2008. XVIII, 398 pages.

ISBN 9783161496844
sewn paper 74,00 €
ISBN 9783161513961
eBook PDF 74,00 €

Private international law as it pertains to bank and insurance contracts is presently contained in various legal texts. The 1980 Rome Convention on the law applicable to contractual obligations only covers bank contracts and a part of insurance contracts. Private international law based on the European insurance directives does fill a part of the remaining gap, whereas the other part is filled by autonomous national conflict of law rules. Since the legal texts provide different concepts for determining which legal order should be applied, the prevailing private international law for bank and insurance contracts shows a lack of consistency. Kolja Stehl tries to overcome this inconsistency and suggests that a common conflict of laws rule be applied to bank and insurance contracts.

Tochtermann, Peter

Die Unabhängigkeit und Unparteilichkeit des Mediators

Volume 210
2008. XXIX, 318 pages.

ISBN 9783161498572
sewn paper 69,00 €
ISBN 9783161513954
eBook PDF 69,00 €

Peter Tochtermann analyzes the extent to which a mediator has to be independent and impartial when supporting parties to resolve their dispute in a mediation amicably. In his comparative analysis, using the mediation experiences of the United States, the author focuses on mechanisms which can ensure the integrity of the process during the different stages of mediation. In addition to the professional regulations for notaries and attorneys, the author examines procedural mechanisms such as codes of ethics and corresponding enforcement procedures as well as the possibility of rescinding a mediation agreement influenced by a biased mediator under U.S. and German contract law. In a closing chapter, the author analyzes hybrid dispute resolution mechanisms, which combine mediation and arbitration.

