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A research agenda for corporate law

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Contents

<i>Contributors</i>	vii
<i>Acknowledgments</i>	ix
1 Formulating a research agenda for corporate law <i>Christopher M. Bruner and Marc Moore</i>	1
PART I EVOLVING CONCEPTUAL FOUNDATIONS	
2 Atomising corporate law: a battle cry for splitters <i>Jonny Hardman</i>	15
3 Corporate law coasting in neutral: from egalitarianism, to sustainability, to extinction? <i>Michael Galanis</i>	35
4 Integrating sustainability into corporate governance <i>Andrew Johnston</i>	57
PART II EVOLVING CAPITAL MARKETS	
5 Dual fiduciaries: unicorns, corporate law and the new frontier <i>Anat Alon-Beck</i>	83
6 The governance of entrepreneurship <i>Ofer Eldar</i>	101
7 Sustainable finance and the public turn in corporate law <i>Virginia Harper Ho</i>	121

PART III EVOLVING SOCIAL AND CULTURAL CONTEXTS

- 8 An anti-racist feminist agenda for sustainable corporate law 143
Carol Liao
- 9 Diversity and ESG: implications for M&A 163
Afra Afsharipour

PART IV EVOLVING TECHNOLOGIES

- 10 Decentralised finance, decentralised organisations and the future of the firm 187
Ann Sofie Cloots
- 11 Harnessing the collective power of retail investors 207
Sergio Alberto Gramitto Ricci and Christina M. Sautter

PART V EVOLVING GLOBAL DYNAMICS

- 12 Global corporate charter competition 231
William J. Moon
- 13 The symbiosis between corporate governance and international law 251
Kish Parella

PART VI CONCLUSIONS

- 14 Corporate law in changing times 273
Marc Moore and Christopher M. Bruner
- Index* 279

Arbitration and insolvency

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CONTENTS

<i>Extended contents</i>	vi
<i>List of contributors</i>	xi
<i>Table of cases</i>	xvi
<i>Table of legislation</i>	xxvii
1 Insolvency and arbitration: a collision of two worlds? <i>Richard Bamforth and Kushal Gandhi</i>	1
2 Is insolvency a procedural or a substantive matter in arbitration: does it matter? <i>Manuel Penades</i>	12
3 Effect of insolvency on the arbitration agreement <i>Peter Ashford</i>	35
4 The amenability of insolvency claims to arbitration <i>Andrew Ayres KC, Alexander Thompson and Fiona Whiteside</i>	59
5 Commencing insolvency proceedings on the basis of an arbitrable debt <i>Michal Hain</i>	83
6 Interim measures in the event of insolvency <i>Emily Saunderson</i>	99
7 Issues arising from party insolvency during the course of ongoing arbitral proceedings: international perspectives <i>Vesna Lazić</i>	125
8 The impact of foreign insolvencies on England-seated arbitration <i>Tony Beswetherick KC and Maria Kennedy</i>	148
9 The impact of insolvency proceedings on enforcement of arbitration awards <i>Jeremy Mash and Tilman Niedermaier</i>	180
10 The impact of insolvency on English statutory adjudication <i>Adrian Bell, Aidan Steensma and Emma Riddle</i>	198
<i>Index</i>	226

EXTENDED CONTENTS

<i>List of contributors</i>	xi	
<i>Table of cases</i>	xvi	
<i>Table of legislation</i>	xxvii	
1	INSOLVENCY AND ARBITRATION: A COLLISION OF TWO WORLDS?	
A.	INTRODUCTION	1.01
B.	INSOLVENCY: POLICY AND FEATURES	1.09
C.	ARBITRATION: POLICY AND FEATURES	1.17
D.	THE INTERPLAY BETWEEN ARBITRATION AND INSOLVENCY: A PRACTICAL ILLUSTRATION	1.27
2	IS INSOLVENCY A PROCEDURAL OR A SUBSTANTIVE MATTER IN ARBITRATION: DOES IT MATTER?	
A.	INTRODUCTION	2.01
B.	THE RELEVANCE OF THE DISTINCTION	2.06
1.	The law applicable to the effects of insolvency in arbitration	2.07
2.	The level of judicial review	2.13
C.	THE REFLECTION OF THE DISTINCTION IN THE IBA TOOLKIT ON INSOLVENCY AND ARBITRATION	2.15
D.	TYPES OF EFFECTS OF INSOLVENCY IN ARBITRATION	2.19
1.	Jurisdictional effects	2.20
(a)	Absolute prohibitions to arbitrate	2.21
(b)	Other jurisdictional effects which seek to prevent arbitration	2.25
(i)	Automatic stays and the possibility to lift the stay	2.26
(ii)	The suspension of the effectiveness of arbitration agreements	2.30
(iii)	The disclaimer of executory contracts and arbitration agreements	2.31
(c)	The reach of arbitral jurisdiction during insolvency	2.34
(i)	Insolvency and arbitral interim relief	2.35
(ii)	The prohibition to order the compensation of credits	2.38
(iii)	The limitation to declaratory relief	2.41
(iv)	The jurisdiction to decide avoidance actions	2.43
(d)	<i>De facto</i> impact on arbitral jurisdiction	2.44
2.	Procedural effects	2.47
(a)	The participation of the insolvency trustee and related matters	2.49
(b)	Amendment of the name of the insolvent party in the arbitration	2.53
(c)	The confidentiality of arbitration during insolvency	2.54
(d)	The temporary suspension of the arbitration	2.56
(e)	Other procedural issues	2.60
E.	CONCLUSION	2.62
3	EFFECT OF INSOLVENCY ON THE ARBITRATION AGREEMENT	
A.	INTRODUCTION, POLICY, AND PRINCIPLE	3.01
1.	Introduction	3.01
2.	General principles	3.04

	(a) Pre-arbitration	3.05
	(b) Pending arbitrations	3.07
	(c) Post-award proceedings	3.09
B.	ENGLISH LAW	3.12
	1. The validity of the agreement to arbitrate in insolvency	3.12
	2. English legislation	3.15
C.	EFFECT WHERE THE INSOLVENT ENTITY IS CLAIMANT	3.19
	1. Introduction	3.19
	2. Moratorium	3.20
	3. Decision-making	3.21
	4. Pre-arbitration	3.22
	5. Limitation	3.28
D.	EFFECT WHERE THE INSOLVENT PARTY IS RESPONDENT	3.34
	1. Introduction	3.34
	2. Pre-arbitration	3.39
	3. Pending arbitration	3.41
	4. Limitation	3.45
	5. Post award	3.49
E.	ADMINISTRATION	3.51
	1. Introduction	3.51
	2. Permission	3.52
F.	LIQUIDATION	3.58
	1. Compulsory winding up	3.58
	2. Voluntary winding up	3.60
	3. Disclaimer	3.63
G.	SCHEMES	3.71
4	THE AMENABILITY OF INSOLVENCY CLAIMS TO ARBITRATION	
	A. DISTINGUISHING QUESTIONS OF SCOPE, PRIVITY AND ARBITRABILITY	4.01
	1. Introduction	4.01
	B. SCOPE/CONSTRUCTION OF THE ARBITRATION AGREEMENT	4.05
	C. ISSUES OF PRIVITY	4.27
	D. PERSONAL SCOPE AND ENFORCEABILITY	4.42
	E. ARBITRABILITY	4.46
	1. Applicable law	4.46
	2. The meaning of arbitrability under English law	4.51
	3. Issues of jurisdiction in the context of court proceedings	4.62
5	COMMENCING INSOLVENCY PROCEEDINGS ON THE BASIS OF AN ARBITRABLE DEBT	
	A. INTRODUCTION	5.01
	B. ORIGINS	5.06
	C. JUSTIFICATIONS	5.19
	1. Statutory policy	5.20
	2. Party autonomy	5.29
	D. CONCLUSION	5.50
6	INTERIM MEASURES IN THE EVENT OF INSOLVENCY	
	A. INTRODUCTION	6.001
	B. THE EFFECT OF INSOLVENCY ON THE JURISDICTION OF THE TRIBUNAL	6.007
	C. INTERIM RELIEF IN ARBITRATION	6.021
	D. SECURITY FOR COSTS	6.037
	1. Requirements for an order	6.046
	2. CIArb guidance	6.047

EXTENDED CONTENTS

3.	English law and procedure and the Arbitration Act 1996	6.070
4.	The approach under the ICC rules	6.079
5.	Laying the groundwork to obtain an order	6.087
6.	Defending an application in the event of insolvency	6.104
7.	Third-party funders	6.108
E.	THE EFFECT OF INSOLVENCY ON CROSS-UNDERTAKINGS IN DAMAGES	6.114
F.	SECURITY FOR THE AWARD	6.123
7	ISSUES ARISING FROM PARTY INSOLVENCY DURING THE COURSE OF ONGOING ARBITRAL PROCEEDINGS: INTERNATIONAL PERSPECTIVES	
A.	INTRODUCTION	7.01
B.	JURISDICTIONS IN WHICH COMMENCEMENT OF INSOLVENCY PROCEEDINGS INVALIDATES ARBITRATION AGREEMENTS	7.04
C.	SUSPENSION OR STAY OF ARBITRAL PROCEEDINGS	7.14
1.	Provisions expressly providing for the stay of arbitral proceedings	7.15
2.	Extending the application on the stay of pending lawsuits to arbitral proceedings	7.18
3.	Distinction between different types of insolvency proceedings	7.20
4.	Policy considerations behind the stay of legal proceedings – relevance for the arbitrators	7.24
(a)	Requirement for due process to be adhered to	7.29
(b)	Public policy considerations – preclusion of individual actions (claims of 'ordinary' bankruptcy creditors)	7.34
D.	EFFECTIVENESS OF THE PRINCIPLE OF PRECLUSION OF INDIVIDUAL ACTIONS OF CREDITORS ABROAD	7.41
E.	CONCLUSIONS	7.51
8	THE IMPACT OF FOREIGN INSOLVENCIES ON ENGLAND-SEATED ARBITRATION	
A.	INTRODUCTION	8.01
B.	EFFECT OF RECOGNITION UNDER THE CROSS-BORDER INSOLVENCY REGULATIONS 2006 (SI 2006/1030)	8.03
1.	What if one of the parties to the England-seated arbitration is subject to foreign insolvency proceedings?	8.03
2.	What foreign insolvency proceedings might impact a party's ability to commence or continue an England-seated arbitration?	8.06
(a)	Requirements for recognition	8.06
(b)	No reciprocity	8.12
(c)	Public policy exception to recognition	8.13
3.	What is the effect of recognition under the CBIR on the ability to commence and continue England-seated arbitration?	8.15
(a)	Foreign main proceedings	8.16
(b)	Foreign non-main proceedings	8.23
(c)	Discretionary relief (main and non-main proceedings)	8.24
(d)	Distinguishing between foreign main and foreign non-main proceedings	8.31
4.	Applications to modify or terminate a stay of arbitration proceedings	8.35
(a)	The court's powers to modify or terminate a stay of arbitration proceedings	8.35
(b)	Expansion of the stay: liquidation-type proceedings versus rescue-type proceedings	8.39
(c)	Reasons for seeking to lift/terminate the stay	8.41
(d)	Applications to terminate a stay	8.44
5.	The consequences of taking steps in the foreign insolvency proceedings	8.50
6.	Termination of the stay upon the conclusion of the foreign insolvency proceedings	8.54

C.	EFFECT ON COMMENCEMENT/CONTINUATION OF ARBITRATION FOLLOWING A PARTY'S ENTRY INTO INSOLVENCY PROCEEDINGS	8.57
1.	Introduction	8.57
2.	The law governing the effect of insolvency proceedings in an EU Member State on England-seated arbitration	8.58
(a)	Where the insolvency proceedings were opened before 26 June 2017	8.59
(b)	Where the main insolvency proceedings were opened between 26 June 2017 and 31 December 2020	8.62
(c)	Where the main insolvency proceedings were opened after 11 pm on 31 December 2020	8.70
3.	Where English law applies: the effect of insolvency proceedings in an EU Member State on England-seated arbitration	8.72
D.	EFFECT OF APPLYING FOR COOPERATION UNDER SECTION 426 OF THE INSOLVENCY ACT 1986	8.73
E.	EFFECT OF RECOGNITION OF FOREIGN INSOLVENCY PROCEEDINGS RELATING TO ONE OF THE PARTIES AT COMMON LAW	8.79
F.	EFFECT OF FOREIGN INSOLVENCY PROCEEDINGS ON ENGLISH DEBT	8.82
1.	The Gibbs Rule	8.82
2.	The exception	8.86
3.	The future of the Gibbs Rule	8.90
9	THE IMPACT OF INSOLVENCY PROCEEDINGS ON ENFORCEMENT OF ARBITRATION AWARDS	
A.	INTRODUCTION	9.01
B.	EFFECT OF THE <i>LEX CONCURSUS</i> ON ENFORCEMENT	9.12
C.	PROCEDURAL REQUIREMENTS FOR RELIANCE ON AWARDS IN INSOLVENCY PROCEEDINGS	9.16
D.	ENFORCEMENT UNDER THE NEW YORK CONVENTION	9.23
1.	The New York Convention regime for recognition and enforcement	9.23
2.	The exceptions to recognition and enforcement under the New York Convention	9.27
(a)	Article V(1)(a)	9.31
(b)	Article V(1)(b)	9.34
(c)	Article V(1)(c)	9.41
(d)	Article V(1)(d)	9.43
(e)	Article V(1)(e)	9.45
(f)	Article V(2)(a)	9.46
(g)	Article V(2)(b)	9.48
10	THE IMPACT OF INSOLVENCY ON ENGLISH STATUTORY ADJUDICATION	
A.	STATUTORY ADJUDICATION IN THE UK CONSTRUCTION INDUSTRY	10.001
B.	THE IMPACT OF INSOLVENCY PROCESSES ON CREDITOR CLAIMS	10.014
1.	Set-off	10.021
2.	Moratorium on proceedings	10.027
C.	THE IMPACT OF INSOLVENCY SET-OFF ON CONSTRUCTION ADJUDICATION	10.028
1.	<i>Bresco v Lonsdale</i>	10.028
2.	<i>John Doyle Construction Ltd v Erith Contractors Ltd</i>	10.038
D.	STAYS OF EXECUTION: GENERAL PRINCIPLES	10.050
1.	Future financial position in the event repayment required	10.057
2.	Financial position at the time of the contract	10.063
3.	The additional limb (g)	10.067
4.	Requests for disclosure of financial information	10.073
E.	STAYS OF EXECUTION: INSOLVENT COMPANIES	10.081
F.	OTHER INSOLVENCY PROCESSES	10.088
G.	ADJUDICATIONS AGAINST INSOLVENT COMPANIES	10.095
H.	THE USE OF INSOLVENCY PROCEEDINGS TO ENFORCE ADJUDICATION DECISIONS	10.099

Balancing unity and diversity in EU legislation

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Contents

<i>List of contributors</i>	vii
1 Introduction: balancing unity and diversity in EU legislation <i>Ton van den Brink and Virginia Passalacqua</i>	1
2 Recent trends in EU internal market legislation <i>Sybe A. de Vries</i>	17
3 Harmonization through adjudication <i>Gunnar Thor Petursson and Xavier Groussot</i>	42
4 Emergency legislation in European Union law <i>Salvatore Fabio Nicolosi</i>	61
5 EU norms posing institutional obligations on Member States <i>Cristina Fasone</i>	80
6 The Unfair Commercial Practices Directive and the uneasy relationship between maximum harmonisation, open norms and self-regulation <i>Bram Duivenvoorde</i>	100
7 Consumer protection directives and private law enforcement <i>Jan Biemans</i>	117
8 Regulatory harmonization and fragmentation in the Capital Markets Union <i>Matteo Gargantini</i>	135
9 Private enforcement of competition law <i>Malgorzata Kozak</i>	155
10 On discretion and sustainability in EU public procurement law <i>Willem A. Janssen</i>	175
11 Minimum harmonization, experimentation and the internal market <i>Vincent Delhomme</i>	194

12	The EU's international commitments and their impact on the EU legislative process <i>Dorin-Ciprian Grumaz</i>	211
13	Unity and diversity in the Common Agricultural Policy <i>Pauline Phoa</i>	231
14	Synthesis – balancing unity and diversity in composite legislative frameworks <i>Ton van den Brink and Virginia Passalacqua</i>	255
	<i>Index</i>	282

Exchange of information in the EU : taxpayers' rights, transparency and effectiveness

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Contents

<i>List of contributors</i>	viii
<i>List of abbreviations</i>	x
<i>List of legislation</i>	xii
Introduction: <i>exchange of information in the EU – taxpayers’ rights, transparency and effectiveness</i> <i>Marina Serrat Romani, Jasper Korving and Mariolina Eliantonio</i>	1
PART I GENERAL PRINCIPLES AND CONCEPTS IMPACTING THE EXCHANGE OF INFORMATION	
1 Transparency and foreseeable relevance in exchange of information procedures <i>Saturnina Moreno González</i>	8
2 Exchange of information procedures between composite administration and transnational administrative acts <i>Olivier Dubos, Mariolina Eliantonio and Tatsiana Ivanchykava</i>	36
3 Availability and proportionality of taxpayers’ information in a digitalised environment: knowledge is power <i>Marina Serrat Romani</i>	51
4 The impact of the right to privacy and nemo tenetur on tax information exchange <i>Filip Debelva</i>	67
5 The right to be heard and other taxpayers’ rights during the exchange of information procedure <i>Stefano Dorigo and Chiara Cinotti</i>	85
6 Judicial protection in exchange for tax information procedures: why ex post protection is not ‘effective’ protection <i>Aikaterini Antoniou</i>	102
7 Exchange of information: effectiveness and efficiency <i>Willem Boei and Sjoerd Douma</i>	125

8	Exchange of information, national tax havens regimes and EU/EEA law <i>Andrés Báez Moreno and Martin Wenz</i>	151
9	Exchange of information and transparency and the NCJ listing process: exchange of information and the level playing field of taxation <i>Martin Wenz, Tobias Koegl and Kasem Zotkaj</i>	163
PART II EU COUNCIL DIRECTIVE ON ADMINISTRATIVE COOPERATION: ANALYSIS OF ITS ORIGIN AND EVOLUTION		
10	The evolution of the exchange of information standards from a global perspective: the influence of the OECD on EU legislation <i>Stefanie Geringer</i>	177
11	The evolution of the exchange of information in the EU: early years, DAC1 and DAC2 <i>Katerina Pantazatou and Arthur Bianco</i>	196
12	DAC3: mandatory automatic exchange of information on advance cross-border rulings and advance pricing arrangements <i>Alicja Brodzka</i>	223
13	DAC4 on CbCr: a powerful tool in the hands of tax administration with regard to transfer pricing <i>Vasiliki Athanasaki</i>	242
14	The challenges of DAC5: access to anti-money-laundering information by tax authorities – taxation is no crime fighting! <i>Almut Breuer</i>	260
15	DAC6: reportable cross-border arrangements <i>Marianne Malmgrén</i>	276
16	DAC7 rules for platforms: a proportionality and legal certainty assessment <i>Juan Manuel Vázquez</i>	297
17	DAC8: track and exchange of information on crypto-assets as a new tool to achieve tax compliance <i>Anne Van de Vijver, Luisa Scarcella and Alessia Tomo</i>	338

<i>Conclusions: exchange of information in the EU – taxpayers’ rights, transparency and effectiveness</i> <i>Marina Serrat Romani, Jasper Korving and Mariolina Eliantonio</i>	356
<i>Index</i>	364

Grundfragen demokratischer und rechtsstaatlicher Verwaltung : 1. Deutsch-Japanisches Verwaltungsrechtskolloquium

Deutsch-Japanisches Verwaltungsrechtskolloquium, 1., 2023, Heidelberg [VerfasserIn];
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Inhaltsverzeichnis

Vorwort V

Wolfgang Kahl

Begrüßung 1

Teil I

Die Bedeutung der Rechtsvergleichung in der Rechtsprechung des Bundesverfassungsgerichts

Stephan Harbarth

Die Bedeutung der Rechtsvergleichung in der Rechtsprechung
des Bundesverfassungsgerichts 9

Teil II

Demokratische und rechtsstaatliche Legitimation der Verwaltung?

Atsushi Takada

Demokratische oder rechtsstaatliche Legitimation der Verwaltung?
Bei der Bewältigung der Sozialstaatlichkeit am Beispiel von
Dietrich Jesch und Bin Takada 27

Friedrich Schoch

Demokratische oder rechtsstaatliche Legitimation der Verwaltung? . . . 45

Teil III
Exekutive Normsetzung in der parlamentarischen Demokratie

Hermann Pünder

Exekutive Normsetzung in der parlamentarischen Demokratie.
Eine rechtsvergleichende Perspektive 77

Ryuji Yamamoto

Exekutive Normsetzung in der parlamentarischen Demokratie 101

Teil IV
Ermessens(fehler)lehre in Japan

Tomohiko Tatsumi

Ermessens(fehler)lehre in Japan. Allgemeine Problematik und Aufgabe
des Verwaltungsermessens aus Sicht der Rechtsvergleichung 121

Teil V
Externer Sachverstand und Verwaltungswissen
in der pluralen Gesellschaft

Michael Fehling

Externer Sachverstand und Verwaltungswissen in der pluralen Gesellschaft 141

Teil VI
Vermeidung von Kontroll- und Verantwortungsdefiziten
bei unabhängigen Verwaltungseinheiten

Masahiko Ohta

Vermeidung von Kontroll- und Verantwortungsdefiziten bei unabhängigen
Verwaltungseinheiten. Selbstständigkeit der Verwaltung und Anlage des
öffentlichen Rentenfonds in Japan, Problemskizze 167

Ralf Müller-Terpitz

Vermeidung von Kontroll- und Verantwortungsdefiziten bei
unabhängigen Verwaltungseinheiten 183

Teil VII
Berichte aus parallel tagenden Arbeitskreisen:
„Bericht aus der VDStRL“ und „Vorstellung der JStRLV“

Jens-Peter Schneider

Bericht aus der Vereinigung der Deutschen Staatsrechtslehrer.
Jahrestagung 2022 in Bremen und Jubiläumsband „Streitsache Staat“ . . . 205

Hiroataka Tokumoto

Vorstellung der Japanischen Staatsrechtslehrervereinigung 217

Anhang 227

Stichwort- und Personenverzeichnis 229

Verzeichnis der Autorinnen und Autoren 235

Verzeichnis der Teilnehmerinnen und Teilnehmer 237

Legal developments on cybersecurity and related fields

Andrade, Francisco António Carneiro Pacheco de [HerausgeberIn]; Freitas, Pedro Miguel Fernandes [HerausgeberIn]; Abreu, Joana Rita de Sousa Covelo de [HerausgeberIn]; Springer Nature Switzerland AG [MitwirkendeR]

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Contents

Legal Developments on Cybersecurity and Related Fields: Introductory Notes and Presentation	1
Francisco António Carneiro Pacheco de Andrade, Pedro Miguel Freitas, and Joana Rita de Sousa Covelo de Abreu	
Part I Cybersecurity, Cyberdefence and Law	
Getting Critical: Making Sense of the EU Cybersecurity Framework for Cloud Providers	9
Ian Walden and Johan David Michels	
Cyber Operations Targeting Space Systems. Legal Questions and the Context of Privatisation	39
Bruno Reynaud de Sousa	
Legal Management of the Concept of Risk in Reversible Operations Against Space Assets	61
Giulia Pavesi	
Knowledge Management and Continuous Improvement in Cyberspace	77
João Manuel Assis Barbas	
Information Security Metrics: Challenges and Models in an All-Digital World	93
Henrique Santos, Teresa Pereira, and André Oliveira	
Cyberterrorism and the Portuguese Counter-Terrorism Act	115
Pedro Miguel Fernandes Freitas	

Part II Cybersecurity and Law: Specific Topics

Towards Cyber Security Regulation of Software in the European Union	131
Arno R. Lodder and Joeri J. Toet	
The Importance of the Computer Undercover Agent as an Investigative Measure Against Cybercrime: A Special Reference to Child Pornography Crimes	145
Almudena Valiño Ces	
<i>Post-Mortem</i> Data Protection and Succession in Digital Assets Under Spanish Law	167
Marta Otero Crespo	
The Suitability of the Regime of Technological Measures for Copyright Protection in the Face of Modern Cybersecurity Risks . . .	187
Pedro Dias Venâncio	
Digital Signatures and Quantum Computing	201
Francisco António Carneiro Pacheco de Andrade and José Carlos Bacelar Almeida	
No Words Needed? Emojis as Evidence in Judicial Proceedings	219
Ana Rodríguez Álvarez	
Part III Cybersecurity, Ethics and Fundamental Rights	
Bug Bounties: Ethical and Legal Aspects	235
João Paulo Magalhães	
Profiling and Cybersecurity: A Perspective from Fundamental Rights' Protection in the EU	251
Alessandra Silveira	
Legal Developments on Smart Public Governance and Fundamental Rights in the Digital Age	289
Isabel Celeste Fonseca and Joel A. Alves	
Biometric Signatures in the Context of Regulation (EU) nr. 910/2014 and the General Data Protection Regulation: The Evidential Value and Anonymization of Biometric Data	307
Francisco António Carneiro Pacheco de Andrade, Ana Silva, and Ricardo Guimarães	
Cybersecurity Issues in Electronic Communications and Some Insights on Digital Literacy and Technological Infrastructures' Demands: Anticipations of the European Digital Decade Through the Lens of a Declaration on Digital Rights and Principles	329
Joana Covelo de Abreu	

Nationalstaat und Föderalismus : zum Wandel deutscher Staatlichkeit seit 1871

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Inhalt

Zum Geleit	7
<i>Josef Hoppe und Thomas Heiler</i>	
Einleitung	11
<i>Andreas Wirsching</i>	
Die Fiktion des Einheitsstaates. Zur historischen Argumentation in der Reichsgründungszeit	23
<i>Wolfgang Neugebauer</i>	
Bundesrat als föderale Klammer des Kaiserreiches	41
<i>Oliver F. R. Haardt</i>	
E pluribus unum – Unitas in diversitate? Unitarismus und Föderalismus in der Weimarer Republik	59
<i>Detlef Lehnert</i>	
Über Freiräume und Grenzen regionaler Herrschaftspraxis. Regionalismus im Nationalsozialismus	93
<i>Michael Kießener</i>	
Von »gegen das Reich« zu »für die Demokratie«. Föderalismus als Staatsdoktrin und Fahnenwort in Bayern von den 1920er bis 1950er Jahren	105
<i>Bernhard Gotto</i>	
Zwischen Föderalismus und Zentralismus. Die Länder in der Sowjetischen Besatzungszone und frühen DDR (1945–1952)	133
<i>Hermann Wentker</i>	

Föderalistische Weichenstellungen zwischen Bizone und Bundesrepublik . . .	153
<i>Manfred Görtemaker</i>	
Die Neugründung des Landes Hessen und sein Weg in die Bundesrepublik	171
<i>Andreas Hedwig</i>	
Die Ministerpräsidentenkonferenz als Selbstbehauptungsorgan der Länder und bundespolitischer Akteur	191
<i>Ariane Leendertz</i>	
Föderalismus und Parteien in der Bundesrepublik	215
<i>Siegfried Weichlein</i>	
Föderalismusreformen in der Bundesrepublik Deutschland und die Gemeinschaftsaufgaben von Bund und Ländern	233
<i>Stefan Oeter</i>	
Der deutsche Föderalismus unter dem Einfluss der europäischen Integration	265
<i>Jonas Becker und Guido Thiemeyer</i>	
Die Wiedergründung der ostdeutschen Länder 1990	283
<i>Andreas Malycha</i>	
Die Corona-Krise und der deutsche Föderalismus	303
<i>Christian Walter</i>	
Autorinnen und Autoren	317
Danksagung	321
Personenregister	323

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Inhaltsverzeichnis

Vorwort des Herausgebers	V
Verzeichnis der Herausgeber und Autoren	VII
Abkürzungsverzeichnis	XVII
Literaturverzeichnis (Auswahl)	XXV
<i>Thomas Stern</i>	
AIFM als Teil der Kapitalmarktunion: Neuerungen durch AIFMD II	1
<i>Armin J. Kammel</i>	
Die AIFMD im praktischen Dualismus der EU-Investmentfonds- regulierung	17
<i>Georg Lehecka</i>	
Systemrisiken von Fonds und ihre regulatorische Behandlung	33
<i>Nicolas Raschauer</i>	
Zur Abgrenzung „alternativer Finanzierungsprojekte“ von AIF – Rechtsgrundlagen und Investoreninformation	43
<i>Bianca Lins</i>	
Marktzugang für AIFM und AIF aus Drittstaaten	67
<i>René Kreisl</i>	
Interne Governance von AIFM und Interessenkonflikte	91
<i>Isabella Kamptner</i>	
Vergütung: Anreizsysteme und Regulierung	167
<i>Martin Wieshaider</i>	
Delegation, Auslagerung und Übertragung der Tätigkeiten des AIFM	191
<i>Sylvia Freygnier/Nicolas Raschauer</i>	
Geldwäscheprävention durch AIFM	209
<i>Clemens Nimmerrichter</i>	
AIF für Kleinanleger (retail AIF)	247
<i>Martin Ramharter</i>	
EU-AIFM als Anbieter des Paneuropäischen Privaten Pensionsprodukts PEPP	271
<i>Oliver Völkel/Philipp Ley</i>	
Investition von AIFs in Krypto-Assets	293

Inhaltsverzeichnis

<i>Daniel Damjanovic</i> Verwahrstellenfunktion: Analyse nach dem liechtensteinischen AIFMG & Ausblick auf AIFMD II	301
<i>Patrick Raschner</i> FinTech und Cyber-Security an der Schnittstelle von AIFMG, MiCAR & DORA	325
<i>Alexander Cserny</i> Darstellung der Besteuerung von Alternativen Investmentfonds	367
<i>Michael Hanke</i> AIF und Liquiditäts-(risiko-)management aus finanzökonomischer Perspektive	393
<i>Dieter Buchberger</i> AIF mit Hebelfinanzierung	407
<i>Rolf Majcen</i> Kreditfonds: EU-Legislativvorschlag will Binnenmarkt für Kreditfonds schaffen	427
<i>Christina Delia Preiner</i> Nachhaltigkeitsregulierung des AIF/AIFM	451
<i>Martin Exel/Clemens Nimmerrichter</i> Der European Long Term Investment Fund (ELTIF)	479
<i>Heinz Macher/Isabella Kamptner</i> Offenlegung und Transparenzanforderungen an AIF (inkl ESAP)	509
<i>Reto Degen</i> Liquidation von AIF nach liechtensteinischem Recht	563
Stichwortverzeichnis	579

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Kuntz, Thilo, 1977- [HerausgeberIn]

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Contents

<i>List of tables</i>	ix
<i>List of contributors</i>	x
<i>Acknowledgments</i>	xii
Introduction to <i>Research Handbook on Environmental, Social and Corporate Governance</i> <i>Thilo Kuntz</i>	1
PART I DIRECTORS' DUTIES AND MANAGERIAL DECISION-MAKING	
1 Taking stakeholder interests seriously: A practitioner's view from Germany on management duties <i>Christoph H. Seibt</i>	22
2 ESG enhancements to company law: The French 'PACTE' law <i>Alain Pietrancosta</i>	46
3 How ESG is weakening the business judgement rule <i>Thilo Kuntz</i>	67
4 Human rights, environmental due diligence, and value chain responsibility: A view from France, Germany, and the European Union <i>Katrin Deckert</i>	95
PART II INVESTOR AND SHAREHOLDER ACTIVISM	
5 Stewardship codes, ESG activism and transnational ordering <i>Tim Bowley and Jennifer G. Hill</i>	117
6 Climate proposals: ESG shareholder activism sidestepping board authority <i>Sofie Cools</i>	138
7 ESG and workforce engagement: Experiences in the UK <i>Andrew Johnston and Navajyoti Samanta</i>	158
8 ESG, the Alien Tort Statute, and private regulation's legitimacy trap <i>Seth Davis</i>	179
PART III INVESTMENT AND FUND REGULATION	
9 EU 'rule-based' ESG duties for investment funds and their managers under the European 'Green Deal' <i>Sebastiaan Niels Hooghiemstra</i>	203

viii	<i>Research handbook on environmental, social and corporate governance</i>	
10	Green bonds: A legal and economic analysis <i>Sergio Gilotta</i>	226
11	Green public finance: The role of central banks <i>Jörn Axel Kämmerer</i>	249
PART IV DISCLOSURE REGULATION AND RATINGS		
12	The forces that shape mandatory ESG reporting <i>Thorsten Sellhorn and Victor Wagner</i>	269
13	A green victory in the midst of potential defeat? Concern and optimism about the impact of the SEC's climate-related disclosure rule <i>Lisa M. Fairfax</i>	293
14	ESG ratings: Guiding a movement in search for itself <i>Andreas Engert</i>	316
PART V INTERNATIONAL LAW		
15	ESG initiatives in international law <i>Rita Guerreiro Teixeira and Jan Wouters</i>	339
16	ESG and international criminal liability <i>Cedric Ryngaert and Martine Jaarsma</i>	359
PART VI REGIONAL DEVELOPMENTS		
17	The EU Framework on ESG <i>Erik Lidman</i>	378
18	The Nordic approach to corporate governance and ESG <i>Jesper Lau Hansen</i>	397
19	ESG in China: A critical review from a legal perspective <i>Xianchu Zhang</i>	421
20	ESG in Japan: The case of a mixed legal system <i>Masayuki Tamaruya and Mutsuhiko Yukioka</i>	439
21	The legal and regulatory impetus towards ESG in India: Developments and challenges <i>Umakanth Varottil</i>	462
22	Rethinking ESG in a regulatory, developmental and predatory state: SOEs and common law Asia <i>Ernest Lim</i>	480
	<i>Index</i>	500

Sustainable finance in Europe : corporate governance, financial stability and financial markets

Busch, Danny [HerausgeberIn]; Ferrarini, Guido [HerausgeberIn]; Grünewald, Seraina [HerausgeberIn]

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CONTENTS

Part I General Aspects

- | | | |
|----------|--|-----------|
| 1 | Sustainable Finance in Europe: Setting the Scene | 3 |
| | Danny Busch, Guido Ferrarini, and Seraina Grünewald | |
| 2 | The European Commission’s Sustainable Finance Action Plan and Other International Initiatives | 17 |
| | Arthur van den Hurk and Ingrid van der Klooster | |
| 3 | Sustainable Digital Finance and the Pursuit of Environmental Sustainability | 97 |
| | Marco Dell’Erba | |

Part II Sustainable Finance and Corporate Governance

- | | | |
|----------|---|------------|
| 4 | Corporate Purpose and Sustainability Due Diligence | 121 |
| | Guido Ferrarini | |
| 5 | The Role of EU Securities Regulation in Sustainable Corporate Governance | 157 |
| | Alessio M. Paces | |
| 6 | Corporate Sustainability Reporting | 185 |
| | Loes van Dijk, Steven Hijink, and Lars in ’t Veld | |

7	Integrating Sustainability in EU Corporate Governance Codes Michele Siri and Shanshan Zhu	211
Part III Sustainable Finance, Systemic Risk & Monetary Policy		
8	Climate Change as a Systemic Risk in Finance: Are Macroprudential Authorities Up to the Task? Seraina Grünewald	265
9	Prudential Requirements for ESG Risks of Banks Bart P. M. Joosen	291
10	The Role of Prudential Regulation and Supervision of Insurers in Sustainable Finance Arthur van den Hurk	375
11	The ECB's New Green Monetary Policy Claudia Wutscher	409
Part IV Sustainable Finance and Financial Markets		
12	Sustainable Finance: An Overview of ESG in the Financial Markets Marieke Driessen	465
13	The Taxonomy Regulation and Its Implementation Christos V. Gortsos and Dimitrios Kyriazis	505
14	Sustainability Disclosure in the EU Financial Sector Danny Busch	563
15	Adverse Impact Indicators as a Measure of ESG Risk? Asset Management Approaches to the Integration of ESG Risk in the Investment Process and Their Interaction with the due Diligence Process in the Context of the SFDR Sara Lovisolo	603
16	ESG Ratings Agencies: The Emerging Power Daniel Cash	615

17 Integrating Sustainable Finance into the MiFID II and IDD Investor Protection Frameworks	637
Veerle Colaert	
18 Capital Markets Legislation and Emission Allowances: A Fruitful Marriage?	691
Filippo Annunziata	
Index	721

Bei den folgenden Werken, ist das Inhaltsverzeichnis im Verbund leider nicht verfügbar.

Wenn Sie dem Link im Titel folgen, kommen Sie aber direkt in unseren Bibliothekskatalog.

Lieferkettenverantwortung : Beiträge zum 11. Wiener Unternehmensrechtstag

Kalss, Susanne, 1966- [HerausgeberIn]; Torggler, Ulrich, 1970- [HerausgeberIn]

Wien : MANZ'sche Verlags- und Universitätsbuchhandlung; 2024

Smart Regulation: Quick Data or Big Data?

Quick Data or Big Data?, Veranstaltung, 2022, Graz [VerfasserIn]; Niemann, Rainer [HerausgeberIn]; Wendland, Matthias, 1975- [HerausgeberIn]; Zollner, Johannes, 1976- [HerausgeberIn]

Tübingen : Mohr Siebeck; 2024