

German Private And Commercial Law An Introduction

German criminal law doctrine, as one of the more influential ones over time and on a global scale, takes rather different approaches to many of the problems of substantive law from those of the common law family of countries like the UK, the US, Canada, New Zealand, Australia etc. It also differs markedly from the system which is most often used in Anglophone writing as a civil law comparison, the French law. German criminal law is a code-based model and has been for centuries. The influence of academic writing on its development has been far greater than in the judge-oriented common law models. The book will serve as a useful aid to debates about codification efforts in countries that are mostly based on a case law system, but who wish to re-structure their law in one or several criminal codes. The comparison will show that similar problems occur in all legal systems regardless of their provenance, and the attempts of individual systems at solving them, their successes and their failures, can provide a rich experience on which other countries can draw and on which they can build. The book provides an outline of the principles of German criminal law, mainly the so-called 'General Part' (eg actus reus, mens rea, defences, participation) and the core offence categories (homicide, offences against property, sexual offences). It sets out the principles, their development under the influence of academic writing and judicial decisions. The book is not meant as a textbook of German criminal law, but is a selection of interrelated in-depth essays on the central problems. Wherever it is apposite and feasible, comparison is offered to the approaches of English criminal law and the legal systems of other common and civil law countries in order to allow common lawyers to draw the pertinent parallels to their own jurisdictions.

Even in the wake of the biggest financial crash of the postwar era, the United States continues to rely on Securities and Exchange Commission oversight and the Sarbanes-Oxley Act, which set tougher rules for boards, management, and public accounting firms to protect the interests of shareholders. Such reliance is badly misplaced. In *Corporate Governance*, Jonathan Macey argues that less government regulation--not more--is what's needed to ensure that managers of public companies keep their promises to investors. Macey tells how heightened government oversight has put a stranglehold on what is the best protection against malfeasance by self-serving management: the market itself. Corporate governance, he shows, is about keeping promises to shareholders; failure to do so results in diminished investor confidence, which leads to capital flight and other dire economic consequences. Macey explains the relationship between corporate governance and the various market and nonmarket institutions and mechanisms used to control public corporations; he discusses how nonmarket corporate governance devices such as boards and whistle-blowers are highly susceptible to being co-opted by management and are generally guided more by self-interest and personal greed than by investor interests. In contrast, market-driven mechanisms such as trading and takeovers represent more reliable solutions to the problem of corporate governance. Inefficient regulations are increasingly hampering these important and truly effective corporate controls. Macey examines a variety of possible means of corporate governance, including shareholder voting, hedge funds, and private equity funds. *Corporate Governance* reveals why the market is the best guardian of shareholder interests.

Inhaltsangabe: Abstract: With the coming into force of Directive 97/55/EC, one of the issues that arose was as to how EU Member States will choose to implement the provisions concerning admissibility of comparative advertising. This dissertation will focus on the Directive's transposition into English and German law with special regard to price comparisons, each model of implementation being situated at the extreme end of the scale. English law, having traditionally supported comparative advertising now has had to face a much stricter approach put forward by the Directive. We shall enquire into the extent to which, in absence of an English law of unfair competition, s.10(6) of the 1994 Trade Marks Act, the torts of passing off and injurious falsehood, and the British Code of Advertising provide for compliance in that sphere. German law, on the other hand, having long opposed comparative advertising, has readily incorporated Directive 97/55 into §§2 and 3 of its 1909 Act Against Unfair Competition (UWG). German literature on the Act's compliance with the Directive has been widespread and the respective analysis will thus be limited to assessing opinions of academics, lawyers, judges, and members of the German government. I then compared those two models of implementation from the wider angle of the civil law/common law divide and general principles underlying Community law, before finally making proposals for amendments and assessing the impact the Directive had on each national law system. Effectively, German law has thus, in my view, provided for implementation to a fuller extent, as well as being the Member State which has felt the Directive's impact much more strongly than England. **Inhaltsverzeichnis:** Table of Contents: Introduction 1 Chapter 1. The Law of Comparative Advertising in England 7 1.1 Rejection of a Law of Unfair Competition 9 1.2 The Law of Comparative Advertising 11 1.3 Implementation of Directive 97/55/EC 14 Chapter 2. The Law of Comparative Advertising in Germany 22 2.1 The Law of Unfair Competition under the 1909 Act Against Unfair Competition 22 2.2 Implementation of Directive 97/55/EC 26 Chapter 3. Analysis: Implementation of Directive 97/55/EC in England and Germany compared 33 Conclusion 43 Annex 47 Bibliography 47 Table of cases 52 Statutory material 53 Key Aspects of German Business Law A Manual for Practical Orientation Springer Science & Business Media

This book gives a concise introduction to the German law of business organizations and is meant to help business practitioners and international students to familiarize themselves with its key concepts and legal issues. After outlining some characteristic features of the German legal system the book describes the various types of German business organizations with a special focus on the German Limited Liability Company (GmbH) and the German Stock Corporation (AG). The book discusses some typical problems faced by companies engaged in cross-border activities and also provides a brief outline of some recent developments in European company law with a special focus on the new multinational corporate form of the European Company (SE).

Since its first appearance in 1986 this book has won uniform praise from many of the world's leading comparatists, has

been acclaimed by senior judges, and has been cited by the courts of many countries. This new edition of the work, substantially rewritten and systematically updated, contains over 150 leading judgments, most translated in their entirety, along with references to over 2,000 other decisions from Germany and the common law world. While the book remains an ideal tool for teaching comparative torts and comparative methodology, the fact that it has been extensively rewritten and enlarged now also makes it an indispensable source of inspiration for those with a professional interest in tort litigation and tort reform. Topics discussed include economic loss, psychiatric injury, wrongful birth, life and sterilization cases, products liability, traffic accidents, accidents at work, environmental liability and compensation for personal injuries and death.

This book presents a clear and precise overview of the key aspects of German business law. It was written by attorneys involved in the daily practice of business law in Germany and is aimed at people who wish to orient themselves quickly with the German legal system and the manner in which it impacts business purchases, establishment, operations and liquidations. The first section of the book is devoted to an explanation of the major issues to be considered in acquiring or establishing a business in Germany. The second section focuses on areas of commercial law that are important for an operating business. In comparison to the last edition four new areas (transportation law, customs regulations, insurance law and state liability law) are treated. The following sections deal with labor law as an independent part of German business law and with computer law. Furthermore, procedural law and European law are addressed. Finally, the last two sections of the book are devoted to an overview over the German tax law, which has an enormous impact on business decisions, and IP law. In all sections special attention has been paid to highlighting and explaining the differences between the German legal system and that of the United States. Nevertheless, the intention is to provide information that will prove valuable to all foreigners, particularly business men and women and lawyers advising clients with an interest in doing business in Germany.

Essay from the year 2003 in the subject Law - Comparative Legal Systems, Comparative Law, grade: 67%, Cardiff University (Großbritannien; Law School), course: Comparative Contract Law, language: English, abstract: The UNIDROIT Principles of International Commercial Contracts¹ have been published in May 1994 by the Rome-based International Institute for the Unification of Private Law (UNIDROIT), an intergovernmental organisation established in 1926. The Working Group on the UNIDROIT Principles was found in 1980 and consisted of independent legal scholars of all major legal systems of the world. The UNIDROIT Principles are not binding law. Most legal writers agree that they can be characterised as a restatement of the law of international commercial contracts² and despite the controversial issue about the very existence, scope and content of a *lex mercatoria* - the possibility of applying supranational law to international legal relationships- most authors agree that it exists and that the UNIDROIT Principles are a significant part of it³. The object of this paper is to examine the UNIDROIT Principles' approach to hardship laid down in Chapter 6, Section 2 and to compare it with its equivalent provision in the German Civil Code (Bürgerliches Gesetzbuch, hereinafter BGB), § 313. For this purpose it is firstly necessary to define the term "hardship". Thereafter I will consider the respective provisions in detail and highlight differences and similarities.

This book offers an edited collection consisting of contributions by leading scholars, addressing the impact of digital technology on European Private Law in light of the latest legislative developments as well as the European Commission's proposals of 9 December 2015. The book analyses issues in the field of contract, data protection, copyright and private international law. Written for both scholars and practitioners, this edited collection provides clear answers to the challenges posed by the digital revolution and acts as a solid basis for further developments of EU law.

A study of German banking law and practice. The articles are designed to cover the subject and take a systematic approach. They are written by experts from authorities, banks and universities. The idea for the book was born in a conference on German and Chinese banking law.

This comparative analysis considers the differing approaches to important areas of law in England, France and Germany. In particular, constitutions, sources of law, rights against the state to prevent abuse of power, and rights of private individuals and organisations against each other in tort and contract are examined and compared, and the system of courts is also considered. Updated and revised, each sub-topic is introduced with the relevant material in the English system, allowing easy comparison and assimilation of the other systems. The text includes translations of relevant French and German codal material, and references to relevant cases from all of the jurisdictions. This new edition includes constitutional changes in France and the United Kingdom, in particular the new procedure for challenging existing legislation before the Conseil constitutionnel. It examines the consequences of the Lisbon Treaty, as well as other recent codal and legislative changes. Comprehensive and topical, the text explores a wide variety of new case law on issues such as: preventive detention; the use of evidence obtained by torture; the balance between suppression of terrorism and personal freedom; the internet; email monitoring; artificial reproductive techniques; use of global positioning systems (GPSs), deoxyribonucleic acid (DNA) and closed-circuit television (CCTV); the wearing of religious clothing (such as the headscarf) and symbols (such as the cross); circumcision; methods of crowd control; the prevention of human trafficking; the preservation of privacy, especially for celebrities; and the legality of pre-nuptial agreements and success fees for lawyers. Designed for students on comparative law courses, this textbook will also prove valuable to students who are familiar with English law, but require a readily comprehensible introduction to French or German law.

The contributions of *Understanding the Sources of Early Modern and Modern Commercial Law* show an excellent assemblage of sources which historians of commercial law use. Besides normative sources, others are often needed to complement them. Rev. ed. of: *Contract enforcement* / Edward Yorio. c1989.

This second edition of *Historical Dictionary of Contemporary Germany* contains a chronology, an introduction, appendixes, and an extensive bibliography. The dictionary section has over 500 cross-referenced entries on important personalities, politics, economy, foreign relations, religion, and culture.

This work gives a brief and selective outline of the central areas of German substantive law and introduces the reader to original German legal material (which is accompanied by an English translation).

Edited by eminent banking law scholar Ross Cranston, this is a collection of essays written in honor of Roy Goode, the Norton Rose Professor of English Law at Oxford and highly esteemed commercial law scholar. The contributors, an international group of distinguished commercial lawyers, address topics including international contracts and sales, credit

and security, and commercial arbitration. Making Commercial Law is a truly international collection that will be of great interest to scholars of commercial law worldwide, and to practitioners working in the areas of finance and international banking.

Every legal system, at the outset of court proceedings, has rules aimed at safeguarding parties' interests during the time needed to obtain a judgment on the merits. However, as the European Commission put the case in a 1997 communication, 'a comparative survey of national legislation reveals that there are virtually no definitions of provisional/protective measures and that the legal situations vary widely. The only convergence that can be ascertained is between the function of such measures.' Recognizing that after almost twenty years the issues noted by the Commission have not found a satisfactory solution, here at last is a book that collects and compares the ideas behind the 'preliminary injunction' (an expression the authors use as a general term for a great variety of provisional and precautionary measures) with an eye to defining and organizing this small but very important aspect of the law. Although the analysis touches on relevant measures from many countries, the authors focus on the national legislation in four EU Member States – England, France, Germany, and Italy – to highlight the nature of the differences these kinds of measures entail. They compare and contrast such aspects as the following: – differences in civil procedure; - the types of measures that may be taken; - the terms on which preliminary injunctions, which are normally directly enforceable, may be ordered by a court; - the kind of assets that may be affected; - the relationship between proceedings in an interlocutory action and proceedings on the substance; - necessity of credible evidence that immediate and irreparable injury, loss, or damage will result if no preliminary injunction is granted; and - the role of protective measures in summary proceedings. The study also describes and examines the recent European order for payment (EC Regulation No. 1896/2006), the most significant existing transnational instrument aimed at granting preliminary protection of creditors' rights. This incomparable book represents a major contribution to a growing debate, particularly in Europe, on ways and means of securing equivalent protection for all litigants. Given the variety of legal systems and of measures available, the debate will have to focus on the functions served by provisional/protective measures, the minimum conditions to be satisfied, the adversary procedure requirement, the enforceability of the measures, and possible redress procedures. There is no more thorough and reliable resource available to clarify these issues for practitioners and interested policymakers everywhere.

U.S. firms doing business in Germany are succeeding far better than usually reported. Indeed, 14 of the 1,400 American companies with direct investment in Germany placed among the top 100 German industrial firms in sales in 1994, a fact that made big news in Germany but was never mentioned in the U.S. press. Here now, in one succinct, readable volume, international lawyer James A. Hart and his coauthor, attorney Dieter Schultze-Zeu, provide vital information that American firms, and firms elsewhere, will need to enter and succeed in the lucrative German market. The result is an exceptionally useful guide for corporate executives and their attorneys, and a cogent introduction to the German business environment for students, researchers, and analysts in the academic community.

Jolowicz's comparative study examines fundamental conceptions of the law and its societal purposes.

This book defines the characteristics of a new discipline that is both legal and scientific: user-friendly legal science. Focusing on how legal tools and practices can be used to achieve objectives in different contexts, it offers an alternative to doctrinal research, law-and-something disciplines, and the traditional interdisciplinary approach. The book not only defines the new discipline's research approach, point of view, theory-building, and research methods, it also shows how it relates to other scientific disciplines and how existing doctrinal legal disciplines can be upgraded into scientific disciplines.

This fourth edition has been thoroughly updated and revised to provide a comprehensive introduction to the German legal system and covers institutional, public, and private law. Included are extracts from the Grundgesetz and a glossary of German legal terms.--Preface.

Providing treatment of landlord and tenant matters, this book covers both commercial and residential issues. The reader is informed with the changing complexities of legislation and case law in this area. The coverage of cases and legislation is complemented by practical advice on issues facing practitioners in their daily work

It is thirteen years since the appearance of the successful second edition of this convenient English-language introduction to the law of Germany. This new edition covers all the significant changes and innovations that have occurred during that period, encompassing the pervasive impacts of European Union law and of globalization, as well as the greatly increased activity of the German legislature in every area addressed in this volume. With fifteen lucid chapters written by academic experts in their respective fields of law, as well as detailed bibliographies, this is the ideal starting point for research whenever a question of German law must be answered. The authors clearly explain the legal concepts, customs, and rules arising from such basic elements as the following: – characteristic problems of German legal unity; – principles and practices of constitutional law; – administrative law and procedure; – the German Commercial Code; – formation and conduct of corporations and partnerships; – contracts; – tort liability; – property rights; – family law; – succession and inheritance; – labor and employment; – issues of private international law; – courts and civil procedure; – the penal code and criminal procedure. Introduction to German Law, Third Edition provides an authoritative description of all issues likely to emerge in the course of normal application of German law in any context.

Presents in-depth, comparative analyses of German, UK and US company laws illustrated by leading cases, with German cases in English translation.

It is nearly ten years since the appearance of the successful first edition of this convenient English-language introduction to the law of Germany. This new edition covers all the significant changes and innovations that have occurred during that period, encompassing the pervasive impacts of European law and of globalisation, the major recent reform of the German Civil Code, and the greatly increased activity of the German legislature in every area. With fifteen lucid chapters written by academic experts in their respective fields of law, as well as detailed bibliographies, this is the ideal starting point for research whenever a question of German law must be answered. The authors clearly explain the legal concepts, customs, and rules arising from such basic elements as the following: characteristic problems of Germany legal unity; principles and practices of constitutional law; administrative law and procedure; the German Commercial Code; formation and conduct of corporations and partnerships; contracts; tort liability; property rights; family law; succession and inheritance; labor and employment; issues of private international law; courts and civil procedure; the penal code and criminal procedure. Introduction to German Law, Second Edition provides an authoritative description of all issues likely to emerge in the course of normal application of German law in any context.

"Colonial Adventures: Commercial Law and Practice in the Making addresses the question how and to what extend the development of

commercial law and practice, from Ancient Greece to the colonial empires of the nineteenth and twentieth centuries, were indebted to colonial expansion and maritime trade. Illustrated by experiences in Ancient Europe, the Americas, Asia, Africa and Australia, the book examines how colonial powers consciously or not reshaped the law in order to foster the prosperity of homeland manufacturers and entrepreneurs or how local authorities and settlers brought the transplanted law in line with the colonial objectives and the local constraints amid shifting economic, commercial and political realities. Contributors are: Alain Clément, Alexander Claver, Oscar Cruz-Barney, Bas De Roo, Paul du Plessis, Bernard Durand, David Gilles, Petra Mahy, David Mirhady, M. C. Mirow, Luigi Nuzzo, Phillip Lipton, Umakanth Varottil, Jakob Zollmann"-- This is the seventh edition of the leading work on transnational and comparative commercial, financial, and trade law, covering a wide range of complex topics in the modern law of international commerce and finance. As a guide for students and practitioners it has proven to be unrivalled. The work is divided into three volumes, each of which can be used independently or as part of the complete work. Volume 1, in the first chapter, covers the roots and foundations of private law; the different origins, structure, and orientation of civil and common law; the forces behind the emergence of a new transnational commercial and financial legal order, its meaning, concepts, and operation; the theoretical basis of the transnationalisation of the law in the professional sphere in that order; its methodology and the autonomous sources of the new law merchant or modern *lex mercatoria*, its international finance-driven impulses, and its relationship to domestic and transnational public policy and public order requirements. The second chapter covers the transnationalisation of dispute resolution in that order, especially international arbitration, and contains a critical analysis of the main challenges to its success, continuing credibility, and effectiveness. All three volumes may be purchased separately or as part of a single set.

This book presents an original, deliberately controversial and, at times, disturbing appraisal of the state of comparative law at the beginning of the 21st century: its weaknesses, its strengths, and its protagonists (most of whom were personally known to the author) during the preceding thirty-five years. It is also a reminder of the unique opportunities the subject has in our shrinking world. The author brings to bear his experience of thirty-five years as a teacher of the subject to criticise the impact the long association with Roman law has had on the orientation and well being of his subject. With equal force, he also warns against some modern trends linking it with variations of the critical legal studies movement, and urges the study of foreign law in a way that can make it more attractive to practitioners and more usable by judges. At the end of the day, this monograph represents a passionate call for greater intellectual co-operation and offers one way of achieving it. A co-operation between practitioners and academics on the one hand and between Common and (modern) Civilian lawyers on the other, in an attempt to save the subject from the marginalisation it suffered in the 1980s and from which the globalisation movement of the 21st century may be about to deliver it.

A clear and precise overview of the key aspects of German business law. Written by attorneys involved in the daily practice of business law in Germany, this book is aimed at people who wish to familiarise themselves quickly with the German legal system and the manner in which it influences business purchases, establishment, operations and liquidations. Throughout, special attention has been paid to highlighting and explaining the differences between the German legal system and that of the United States, although the intention is to provide information that will prove valuable to all foreigners, particularly business people and lawyers advising clients with an interest in doing business in Germany.

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