EUROPEAN COMPANY LAW
EUROPEAN COMPANY LAW

Organization, Finance and Capital Markets

PROF. DR. DR. STEFAN GRUNDMANN, LL.M.
Professor of Private Law
Humboldt-Universität zu Berlin

with contributions to §§ 7, 11, 19 and 25 by
FALKO GLASOW

2nd edition

intersentia
Cambridge – Antwerp – Portland


Artwork on front cover: Titian, 'The Bacchanal of the Andrians', circa 1523/1524, Museo Nacional del Prado (Madrid); Artwork on back cover: Titian, 'The Rape of Europe', 1559-1562, Isabella Stuart Gardner Museum (Boston).

© 2012 Intersentia
Cambridge – Antwerp – Portland
www.intersentia.com | www.intersentia.co.uk

ISBN 978-1-78068-019-4
NUR 827


No part of this book may be reproduced in any form, by print, photoprint, microfilm or any other means, without written permission from the publisher.
SERIES PREFACE

The role of European law is becoming more and more central in comparative law, in the law of the other Member States and as an outstanding model for legal policy. Insiders have known for a long time that in almost all core areas of law, the important spurs to reform have been coming from Europe and that European law increasingly dominates the cornerstones of our legal systems. Therefore, a discussion of European law involves addressing the main problems and guiding principles but, in practical terms, it also increasingly entails raising questions that are threatening to revolutionise national legal traditions and render entire libraries obsolete.

Since 2002, the year marking the introduction of the Euro, a new law of obligations has been in place in Germany, with the old codifications in France and Austria following to a lesser extent. The next years were characterised by unrestricted cross-border mobility of court decisions; re-writing of core areas of company law such as accounting, cross-border mobility, but as well the promulgation of supranational types of company, with some of the largest German enterprises becoming 'European Companies' (SE); and also cross-border crediting of contributions to social security systems becoming a reality. The law on competition and subsidies has been primarily European for a long time and its mighty implementing mechanisms – overriding Heads of State – fill title pages. The same applies to intellectual property law, foreign exchange law, banking and insurance law and environmental law. These have become genuinely European subjects. Then, in the last years, the cross-border arrest warrant fundamentally changed European Criminal Law; there is now a proposal for a European Optional Contract Law (Code); the Lisbon Treaty – though formally not a constitution – installed a new institutional setting strengthening democratic legitimacy and powers of the European Union; and the financial and state debt crises, not even ten years after the introduction of the Euro, triggered measures which considerably strengthened and broadened financial stability schemes at the EU level, from banking law to capital market law and collaboration with respect to systemic risk. The near future will show whether Europe is to have an institutionalised economic collaboration for its political economy (‘true economic government’) in some way, reflecting the now global importance of the Euro and the responsibility attached to it!
European law – in all legal areas – has long since assumed dimensions that make it absolutely necessary to refer to more than a single book. This series, now beginning its second edition, is structured so as to provide the relevant European complement to a traditional legal area. It offers the internal market package organised in this way, with those areas being chosen for users that have a significant internal market dimension. In comparison with a multi-volume looseleaf work, it has advantages not only in terms of price, but also in that it puts a greater emphasis on classification and limits the material to the essential, which is important in an overflowing area such as European law, of which only very few people manage to preserve an overview.

The dynamic nature of European law is impressive, as its development hurtles along, gathering momentum. There is a need for direction. A serious application of law can no longer focus solely on national transposition. The original, the European guideline, which de facto almost always has to be directly applied (even in national legal processes), must be considered. Such direction can best be provided by presenting the contents of European law in context and in the necessary detail – in the present case, up to twelve individual volumes. Some of the volumes have already had considerable success in one national market and are now presented to a pan-European public.

The volumes cover the most important topics in the ‘Europeanisation’ of law. For practitioners – solicitors and barristers, corporate lawyers, judges or lawyers in state authorities or ministries – who do not wish to turn a blind eye to European law, these volumes provide a reliable treatment of the important problems, with sufficiently detailed references. They provide practitioners with all they need on the EU level, and moreover give comparative law and legal policy insight. As a series, they give an overview of those areas most affected by European law. Likewise, they provide advanced students with material for excellent examination results. Students must study European law seriously as part of their main subject if they really wish to specialise in this in the future and do more than pass their examination with an average result. Works with comparative law and interdisciplinary aspects also prepare students for a possible period of study abroad, help them to analyse law in terms of function and also support studies in related subjects. Thus, IUS COMMUNITATIS makes European substantive law accessible in the form of the classic systematic textbook and specialist work.

All volumes on the applicable law of the Union begin by presenting the necessary tools: in each case, the EC/EU law and the instruments whereby this law enters into the national legal systems are introduced. In all volumes, a thorough description of the EC/EU law rules forms the core of the discussion. However, economic or other interdisciplinary references of significance to the legislation in question are also explained, i.e. what the rules are intended to achieve and,
where there are lacunae, the various models that exist and are discussed throughout Europe. European law is, indeed, a law in the making. Each legal area is presented in a logical order, as an organic whole; this implies that the approximated or harmonised law forms only the skeleton or hard nucleus and is supplemented by comparative law explanations where harmonisation is not advanced. In this way, the relationship to national law becomes clearer and the ability of readers to deal with European law will improve, as they are given a coherent picture rather than the fragmentary one often complained of. These are to be textbooks, discussion books and, above all, practical books – sufficiently condensed to contain all the necessary details and yet clear in their outlines. This was the objective we strive for and the challenge. The authors and the editor (Stefan.Grundmann@rewi.hu-berlin.de) thank those who have criticised and inspired us and who may do so in the future.

The entire IUS COMMUNITATIS series owes much to the Thyssen Foundation, which considered the European aspect and in particular the connection with comparative law so important that it generously supported a good number of the volumes. As the editor, I should like to express my deepest thanks.

Berlin, Summer 2011

Stefan Grundmann
AUTHOR’S PREFACE

This is the first book published in the IUS COMMUNITATIS series. The book has met with a generous reception, and this has prompted a second edition only a few years later. The series is aimed at describing European substantive law in some twelve volumes and in a particular way: uniform or harmonised law (at the EU level) is treated completely and very thoroughly, but non-harmonised areas are treated as well, at least with respect to the most important solutions and trends to be found in a comparative law perspective. Moreover, there are often some interdisciplinary theory or policy aspects taken into consideration. Instead of the often deplored ‘EC/EU law patchwork’, the whole organism of rules and solutions important for ‘Europe’ in a certain field is presented. Of course, the uniform or harmonised law is treated much more thoroughly and as the skeleton for the rest, but the rest is visible as well. Moreover, each area is conceived functionally and rather broadly, touching upon the most important intersections and neighbouring fields.

This was and has remained the design of the present volume as well, which also covers capital market law and – less extensively – corporate tax and corporate insolvency law and, moreover, internal organisation, which is harmonised only very occasionally, applying here the comparative law approach and focusing only on the most important solutions and in particular on questions of (comparative) corporate governance. Economic theory is used for the fundamentals and applied to the most disputed questions.

The moment at which this book was written, published and now re-published could hardly be a luckier one. The last ten years or so – during which the German and the English editions have been written – led from ‘crisis’ to ‘boom’. Case law and legislation were of an intensity such that, it can be said without exaggeration, European company law, in 2010, is no longer what it was in 2000. The core of European company law, the law of accounting, has been re-written under the reign of the IAS/IFRS, with a completely new approach and a completely new information philosophy. The First Company Directive has progressed from the age of hardcopy files to the era of electronic media. Capital market law has been thoroughly reformed and ‘codified’ in all its individual parts and (four or five) directives, even fundamentally changing the overall system. In the wake of the financial crisis, further reform was needed. As of 2000, insolvency as the most
important reason for winding-up has been regulated, though only with respect to questions of jurisdiction and conflict of laws. The rich case law of the ECJ – from Centros, still in 1999, via Überseering and Inspire Art to the many 'Golden Shares' judgments and finally Sevic and Cartesio – has forcefully imposed cross-border mobility of the company as such, while its shares and capital had been fairly mobile already. It may well lead to an efficiency-based scrutiny of virtually all national company law in the case of listed companies. The Takeover and the Cross-Border Mergers Directives have added legal certainty and important pieces of regulation to cross-border mobility of the company as such. The European (public limited) Company has come into existence (2000/2004) and, despite predictions to the contrary, has convinced even in Germany such important players as Allianz AG. The European Cooperative Society followed and probably soon the European Private Company will also follow, and finally in corporate tax law, for the first time in two decades, not only have the existing directives been reformed, but there is also at least a draft design for a comprehensive European corporate tax law again. And finally, there is now harmonisation of shareholders’ rights, mainly cross-border voting. The book reports on developments through late summer 2011.

This book – and the entire IUS COMMUNITATIS series – owes much to the Thyssen foundation, which considered the European aspect and in particular the connection with comparative law so important that it generously supported this volume and others. As the editor of the series and the author of the present volume, I should like to express my deepest thanks. This particular book, in its second edition, owes really a great deal to my assistant, Mr. Falko Glasow, who has contributed so considerably – namely in the area of fundamental freedoms, conflict of laws and the capital regime – that one can indeed speak of co-authorship here. I am highly indebted also to my other assistants, namely Ms. Frederike Zufall, Dr. Moritz Renner and Dr. Moritz Mühling, for help in other parts of the book. And finally, this second edition would not have its present form in English without the precious help of Ms. Emilie Mathieu and Mr. Oscar Renalls, with their precision and dedication to an elegant and consistent usage. Many thanks to all of them. Colleagues will sense where discussions with them have influenced me. I am deeply indebted to all of them.

Berlin, Summer 2011
For Michaela, Jonas, 
Aischa-Rebecca and Julia
# TABLE OF CONTENTS

SERIES PREFACE ................................................................. v

AUTHOR’S PREFACE ......................................................... ix

LIST OF ABBREVIATIONS ................................................... xlvii

**PART I. FUNDAMENTALS AND OVERVIEW**

CHAPTER I.
SUBJECT MATTER, FUNCTIONS OF EUROPEAN COMPANY LAW
AND METHODS ................................................................. 3

§1. Subject Matter and this Book ........................................ 3
I. Rules ................................................................. 4
  1. Principle: Organisation and Financing of Companies as the
     Subject Matter Treated ....................................... 4
  2. Including Those Areas Which Matter in Company Law
     Practice ........................................................... 5
     a) The Law of Company Organisation .................... 5
     b) Capital Market Law ........................................ 6
     c) Tax and Insolvency Law .................................. 8
     d) Company Conflicts of Laws ('International Company
        Law') and Fundamental Freedoms ..................... 8
     e) Integrated Presentation .................................... 9
II. Types of Company ................................................... 9
  1. Companies Limited by Shares and Partnerships? ......... 9
  2. Types of Company Limited by Shares ..................... 9
  3. Dominant Role of the Public Limited Company .......... 11
III. Two-Level System of Legislation ................................. 13
  1. EU Law .......................................................... 13
     a) Primary EU Law (Treaty Law) ......................... 13
     b) Secondary EU Law (Legislation) ...................... 13
     c) General Principles of Little Importance ............ 14
  2. National Law .................................................. 15
     a) Two Kinds of Two-Level Problem ...................... 15
     b) Efficient Distribution of Powers and Good Interplay . 16
IV. Ways of Systematising the Subject Matter ................. 16

Intersentia xiii
1. Following the Official Numbering .......................... 17
2. Distinguishing Between Types of Company ............... 17
3. Distinguishing Between Harmonisation and Creation of Supranational Types ........................................ 18
4. Following the Steps in the Life of a Company .............. 18
V. Order Chosen in this Book .................................... 18

§2. Functions and Legitimation ........................................ 19
I. Integration .......................................................... 20
1. Scope and Broad Acceptance of Integration Rules ........ 20
   a) Scope ............................................................. 20
   b) Broad Acceptance of Integration Rules .................... 22
2. Mobility of Products ............................................... 22
   a) Problem ......................................................... 22
   b) Solution in European Company Law ....................... 23
3. Mobility of Capital ................................................ 25
   a) Problem ......................................................... 25
   b) Solution in European Company Law ....................... 25
4. Mobility of the Organisation as a Whole ...................... 27
   a) Creation of Branches and Subsidiaries ................. 27
   b) Cross-Border Transfer of Seat and Merger ............ 28
   c) Cross-Border Takeover and Groups of Companies ...... 28

II. Removing Distortions of Competition ......................... 29

III. Modernising and Reforming Company Law(s) ............. 31
1. An Obvious Objective ............................................ 31
2. Core Question: Best Framework for an Efficient, Modern Law ................................................................. 32

§3. Methods ............................................................ 33
I. Comparative Law .................................................... 35
1. Economic Importance .............................................. 35
2. Comparative Law .................................................... 36
   a) Economic Importance as Parameter Used for Selection ...... 36
   b) Importance for Europeanisation and Width of the Range of Solutions Offered as Additional Parameters of Choice ............................................. 38
   c) Comparing Public Company Laws .......................... 39
3. Status Quo of the Legislation in the ‘Larger’ Member States 40

II. Economic Theory .................................................... 43
1. Companies as a Network of Contract Relations – The Principal-Agent Problem .......................................... 44
   a) Network of Long-Term Contracts (Relations) – As Opposed to On-the-Spot Contracts .................. 44
   b) Principal-Agent Problems .................................... 46
2. The Particular Importance of Information and Capital Markets .................................................. 47
3. Public Regulation of Long-Term Contracts (Relations) and Information Problems? ......................... 49
   a) Justifications for Regulation ........................................ 49
   b) Core Cases for Potential Regulation .......................... 50

CHAPTER 2. OVERVIEW OF THE MATERIAL AND ITS STRUCTURE ................................. 53

§4. Rules at the EU Level (Conpectus of the Subject Matter) ............................ 53
I. General Questions of EU (Treaty) Law ........................................ 54
   1. Questions at the EU Level ........................................ 54
   2. The Legal Basis for European Company Law in Particular ... 56
      a) Well-Conﬁned Legal Basis ....................................... 56
      b) Subsidiarity and Proportionality .............................. 57
      c) Choice of Instrument: Directive or Regulation ........... 58
   3. The Interpretation of European Company Law in Particular ... 59
      a) Object of Interpretation and Methods of Interpretation ... 59
      b) Practical Importance ............................................. 61
II. Company Law Directives (Harmonisation of Organisation and Accounting) ........................ 61
   1. Formation and Current Business .................................. 64
      a) Validity, Representation, Disclosure, Limited Liability, Capital and Capital Measures (First, Second and Twelfth Directives) .................................................. 64
      b) Other Mostly Non-Harmonised Issues ....................... 65
      c) Harmonised Accounting Law (Fourth, Seventh and Eighth Directives) ..................................... 65
   2. Establishment and Structural Changes ............................... 66
      a) Branches and Cross-Border Transfers of Seat .............. 66
      b) Mergers and Spin-Offs in Public Limited Companies ... 66
      c) Takeover and Corporate Groups ................................ 67
   3. Sequence in Time .................................................. 67
III. Capital Market Law Directives (Financing) ................................................ 72
   1. The Law of Primary Markets ....................................... 73
   2. The Law of Secondary Markets ................................... 74
   3. Sequence in Time .................................................. 76
IV. Directives On Company Taxes, Capital Yield And Capital Transfer Taxation (Stamp Duties) ....................... 77
   1. Harmonisation Measures on Particular Situations .......... 77

Intersentia xv
# Table of Contents

2. Considerations on a General Harmonisation of the Foundations of Corporate Tax Law ........................................ 78
3. Effect of the Fundamental Freedoms in the Whole of Tax Law ................................................................. 79

V. Supranational Types of Company (Unification of Corporate Organisational Rules) ........................................ 80

VI. Insolvency Law Regulation .................................................. 81

VII. Enterprise-Related Labour Law .................................... 82

1. Labour as a Factor of Production and as a Part of the Organisation? ............................................................ 82
2. Legal Measures Dealing with the Repercussions of Structural Changes in Companies on the Employment Relationship .... 82
3. Legal Measures Dealing With Employee Participation Within the (Organs of the) Company .............................. 83

VIII. Sector-Specific Rules and Bordering Areas ..................... 84

1. Special Accounting Law and Disclosure Rules ....................... 84
2. Own Capital and the Law of Prudential Supervision .............. 85
3. Merger Control ................................................................ 86
4. Excluding These Areas .................................................... 86

§5. Effects on National Law ...................................................... 86

I. The Dimensions Which Matter ........................................... 88

II. EU Law Monitoring National Law .................................... 89

1. EU Law Rendering National Law Inapplicable via Its Fundamental Freedoms ................................................. 89
   a) Freedom of Establishment and of Capital Movements as the Two Freedoms of Company Law ......................... 89
   b) Shared Conditions of Application and Shared Effects ................................................................. 89
   c) More Specific Treatment of Three Core Situations ............................................................................. 92
2. EU Law Rendering National Law Inapplicable via Directives? ..................................................................... 92
   a) Domestic Cases ............................................................................................................................ 92
   b) Cross-Border Cases ....................................................................................................................... 94
   c) Direct Effect ................................................................................................................................. 94

III. EU Law Containing its own Substantive Solutions ............... 95

1. Own Substantive Solutions – Imposing the (Minimum) Standards ...................................................................... 95
2. In Particular: Direct Effect .................................................. 96
   a) Principle ........................................................................................................................................ 96
   b) Direct Effect in European Company Law ...................................................................................... 97
3. In Particular: Indirect Effect and Efficient Sanctions ........... 97
5. Do These Mechanisms also Exercise Their Influence in Non-harmonised Areas? ............................................ 100
IV. Effects In States Of The European Economic Area ............... 101
§6. The Question of an OptimalExtent of European (Company) Law .... 102
I. Advantages and Disadvantages of Centralised vs. Decentralised
   Legislation ................................................. 104
   1. General Survey of Advantages and Disadvantages. .......... 104
   2. In Particular: Substantive Rules vs. Information Rules .... 105
II. Constitutional Framework and Conditions for Well-Functioning
   Interplay .................................................. 106
   1. Constitutional Law Framework ................................. 106
   2. Prerequisites for Functioning Regulatory Competition .... 107
III. Application To Specific Areas .................................. 108
   1. The Market of Corporate Finance on Capital Markets
      (Capital) ................................................. 109
      a) Centralised Rules for Trade, Decentralised Rules for
         Products .............................................. 109
      b) Functioning Competition? ................................. 109
   2. Formation of Companies – Including Rules on Capital .... 111
      a) Freedom of Choice and Information for the Parties
         Concerned ............................................. 111
      b) External Effects Rather Rare .............................. 112
   3. Current Operation and Structural Changes –
      Mainly Principal-Agent Problems ............................. 112
      a) Two Ways of Choosing Another Principal-Agent
         Regime ................................................ 112
      b) Decentralised Regulation of Principal-Agent Problems. 112
      c) Few Rules on Freedom of Choice and Mobility at
         the EU Level .......................................... 114
      d) In Search of Functioning Competition .................... 115
IV. From Jurisdictional Competition to a Framework for
    Competition – European System of Company Laws .......... 117

PART 2. FORMATION OF COMPANIES AND CURRENT OPERATION

CHAPTER 1.
GENERAL QUESTIONS ........................................... 121

§7. Phenomena Covered and Questions of Application ............... 121
I. Phenomena Covered ........................................... 123
   1. Phenomena ............................................. 123
   2. Harmonisation Status and Presentation in This Book ....... 123
II. Questions of Application ....................................... 124
   1. Basic Treatment in Conflict of Laws ......................... 124
      a) Connecting Factor .................................... 125
CHAPTER 2.
VALIDITY AND THIRD PARTY RELATIONSHIPS ................. 145

§8. Validity and Representation of (Limited) Companies (First Directive) . 145
I. Importance, Scope and Subject Matter ....................... 146
  1. Cornerstone for a European Company Law ................ 146
     a) External System: European Company Law as a Law of
        Limited Liability Companies .............................. 147
     b) Internal System: Importance of Third Party
        Relationships and of Information Rules ............... 148
  2. Scope of Application ........................................ 148
     a) Companies Enumerated ................................. 148
     b) New or Fundamentally Changed Types of Company –
        Some Rules also for the Adhesion to Partnerships? .... 149
  3. Survey of the Regulatory Content ........................... 151
     a) Disclosure ................................................. 151
     b) Protecting Third Parties Against Validity Risks ....... 151
II. Formation and Validity of Companies (Art. 11–13) .......... 151
  1. Formation: Preventive Control and Reducing the Risks
     of Nullity (Art. 11) ....................................... 151
     a) Scope of the Rule ....................................... 152
     b) Restricted List of Grounds for Nullity ............... 153
  3. Avoidance only for the Future (Art. 12 lit a, Art. 13) .... 154
     a) Declaration of Nullity ................................. 154
     b) Effects as Against Third Parties ...................... 154
     c) Effects Within the Company ............................ 155
III. Creating Obligations for the Company (Art. 8–10) .......... 155
  1. Liability of Parties Acting in the Formation Phase (Art. 8) .. 155
     a) Acting in Whose Name? ............................... 155
     b) Assumption of Liability by the Company and Agreements on
        Liability .................................................. 157
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Protection of Third Parties Acting Bona Fide (Art. 9)</td>
<td>157</td>
</tr>
<tr>
<td>3. Power of Representation Largely Unrestricted (Art. 10)</td>
<td>158</td>
</tr>
<tr>
<td>a) The Concept and Its Integration-Related Effects</td>
<td>158</td>
</tr>
<tr>
<td>b) Power of Representation Restricted by a General Rule of Law</td>
<td>159</td>
</tr>
<tr>
<td>c) Power of Representation Restricted by Company Statutes or Resolution</td>
<td>160</td>
</tr>
<tr>
<td>d) Power of Representation Restricted Because of a Particular Case Pattern</td>
<td>161</td>
</tr>
<tr>
<td>§9. Disclosure, Mainly at the Time of Formation (First and Second Directives)</td>
<td>165</td>
</tr>
<tr>
<td>I. Disclosure – Importance and Subject Matter (Information Model)</td>
<td></td>
</tr>
<tr>
<td>1. Information Rules – Concept and Characteristics</td>
<td></td>
</tr>
<tr>
<td>2. Importance in European Company Law</td>
<td></td>
</tr>
<tr>
<td>a) Supremacy of Information Rules in EU Treaty Law</td>
<td>166</td>
</tr>
<tr>
<td>b) Dominant Position of Information Rules in EU Secondary Law</td>
<td>167</td>
</tr>
<tr>
<td>3. Information – Necessity and Economic Theory</td>
<td></td>
</tr>
<tr>
<td>a) Necessity</td>
<td>168</td>
</tr>
<tr>
<td>b) Access to Information (Information Economics)</td>
<td>169</td>
</tr>
<tr>
<td>c) Capability to Act on Information Received</td>
<td>172</td>
</tr>
<tr>
<td>4. Survey of the Disclosure Rules Contained in the First and Second Directives</td>
<td>172</td>
</tr>
<tr>
<td>II. Items to be Disclosed (First, Second and also Fourth Directive)</td>
<td>173</td>
</tr>
<tr>
<td>1. Instrument of Constitution and Statutes</td>
<td>173</td>
</tr>
<tr>
<td>a) Art. 2(1)(a-c) of the First Directive</td>
<td>173</td>
</tr>
<tr>
<td>b) Supplementation in the Second Directive</td>
<td>173</td>
</tr>
<tr>
<td>2. Composition of the Bodies</td>
<td>174</td>
</tr>
<tr>
<td>a) Art. 2(1)(d) of the First Directive</td>
<td>174</td>
</tr>
<tr>
<td>b) Supplementation in the Second Directive</td>
<td>174</td>
</tr>
<tr>
<td>3. Capital</td>
<td>175</td>
</tr>
<tr>
<td>a) Art. 2(1)(e) of the First Directive</td>
<td>175</td>
</tr>
<tr>
<td>b) Supplementation in the Second and Fourth Directives</td>
<td>175</td>
</tr>
<tr>
<td>4. Accounting (Art. 2(1)(f) of the First Directive and Fourth Directive)</td>
<td>175</td>
</tr>
<tr>
<td>a) The Fourth Directive As Lex Specialis</td>
<td>175</td>
</tr>
<tr>
<td>b) Importance</td>
<td>176</td>
</tr>
<tr>
<td>5. Seat, Legal Form and Objects of the Company (First and Second Directives)</td>
<td>176</td>
</tr>
<tr>
<td>6. Winding Up, Nullity and Termination of Liquidation (Art. 2(1)(h-k) of the First Directive)</td>
<td>177</td>
</tr>
</tbody>
</table>
Table of Contents

7. Shares and Founders (Art. 3(b-h) and (i-k) of the Second Directive) .......................................................... 177

III. Means Of Disclosure (First Directive) .................................. 177
1. Source of Information: The Register (Art. 3(1–3)) .......... 177
   a) Extract from the Register (Art. 3(4)) .......................... 179
   b) Publication (Art. 3(5)) ........................................ 180
   c) Indication on Business Correspondence (Art. 5) .......... 181

IV. Effects of Disclosure (First Directive) ................................. 182
1. Negative Effects Before Publication (Art. 3(6) and (7)) ..... 182
   a) Third Parties Can Invoke Legal Changes ................. 182
   b) Party Responsible for Registration Cannot Invoke Legal Changes ......................................................... 183
2. Positive Effects of Publication (Art. 3(7) first and second subpara.) ...................................................... 183
   a) Additional Content of Art. 3(7) first and second subpara. ............................................................... 183
   b) Positive Effects of Publication .................................. 184

V. Disclosure by Branches – Renvoi .......................................... 185

VI. Persons Responsible and Sanctions (First Directive) ......... 185
1. Responsibility For Registration Not Harmonised (Art. 6) 185
2. Sanctions Partly Harmonised (Art. 7) .............................. 185

VII. Transposition of the First Directive from a Comparative Law Perspective .................................................. 187

§10. Limited Liability (Second and Twelfth Directives) ............. 188
I. Limited Liability as an Unwritten Principle ....................... 189
1. Principle, Objective and Limits .................................... 189
   a) General Principle of Limited Liability ....................... 189
   b) Objective ..................................................... 189
   c) Possible Exceptions ........................................... 190
2. Limited Liability also in the Case of Low Membership Numbers (Second and Twelfth Directives) ......................... 191
   a) Developments in National Laws ............................... 191
   b) Minimal Guarantee of Continuing Existence for PLCs (Art. 5 of the Second Directive) ......................... 192
   c) Limited Liability in the Case of Single-Member Private Limited Companies and Equivalent Solutions (Art. 2(1) and Art. 7 of the Twelfth Directive) ............... 193
   d) Limited Liability in the Case of Single-Member PLCs Only Under National Law (Art. 6 of the Twelfth Directive) .......................................................... 194

xx

Intersentia
3. Formal Requirements in the Case of Low Membership Numbers (Art. 3–5 of the Twelfth Directive) 195

II. Exceptions 196
1. Written Exceptions (Art. 2(2) of the Twelfth Directive) 196
   a) Precursors in National Law, Proposal at the EU Level 196
   b) Exceptions Only According to National Law 197
2. Exceptions in ‘Specific Cases’ (Abusive Practices) 198
   a) In Principle No Other Exceptions Beyond ‘Specific Cases’ 199
   b) Groups of Companies 199

III. Transposition of the Twelfth Directive from a Comparative Law Perspective 201
I. Importance, Scope and Subject Matter 205
   1. Capital Directive as a Core Part of European Company Law 205
   2. Application Only to the Public Limited Company or To All Limited Companies? 207
   3. Creditor and Shareholder Protection and Questioning the Goal of the Capital Directive 208
      a) Creditor and Shareholder Protection via Protection of Capital 208
      b) Critical Evaluation in Economics and Policy Issues 210
      c) Critical Evaluation in Practice 212
      d) Deregulation Trends at the EU and National Levels 212
II. Equal Treatment as a Core Principle (Art. 42) 215
III. Protection of Capital at the Time of Formation (Art. 4–14) 216
   1. General Rules on Third Party Protection (Art. 4 et seq.) 217
   2. Minimum Capital (Art. 6) 217
   3. Raising of Subscribed Capital and Surcharge (Art. 7–9, 12, 18) 218
      a) Capital and Duty to Contribute 218
      b) Performance of the Obligation to Contribute 220
   4. Scrutiny and Particular Safeguards in the Case of Contributions in Kind (Art. 10 et seq.) 220
      a) Scrutiny of Contributions in Kind 220
      b) Protection Against Circumvention 224
IV. Protection of Capital in the Current Operation of the Company (Art. 15–24A) 226
1. Protection of Capital Through Limiting Distribution of Profits ........................................... 226
   a) General Regime of Limiting Distribution of Profits (Art. 15) ........................................ 226
   b) Applicability to Some Specific Situations? ............... 228
   c) Claim for Return (Art. 16) ........................................... 230
2. Duty to Consult in the Case of Serious Losses (Art. 17) .... 230
3. Purchase of Own Shares, Transactions Covered and Limits (Art. 19–24a, 39) ......................... 231
   a) Maximum Thresholds for Purchase (Art. 19–21) ...... 231
   b) Rules About Holding Company-Owned Shares (Art. 22) 233
   c) Prohibition on Making Loans for the Purchase of Own Shares (Art. 23) ......................... 234
V. Capital Increases and Pre-Emption Rights (Art. 25–29) .... 235
1. Capital Increases (Art. 25–28) ........................................... 235
2. Pre-Emption Rights and Their Withdrawal (Art. 29) ...... 237
   a) Pre-Emption Rights .............................................. 237
   b) Withdrawal of Pre-Emption Rights ...................... 238
VI. Capital Reduction (Art. 30–38) ........................................ 241

CHAPTER 3.
STRUCTURE AND MEMBERS’ PARTICIPATION RIGHTS IN PUBLIC LIMITED COMPANIES (KEY COMPONENTS AND COMPARATIVE LAW) .................................................... 247

I. Almost No Harmonisation ........................................... 249
   a) Board .......................................................... 249
   b) Allocation of Powers ........................................ 250
2. European Company Statute (Renvoi) ......................... 251
II. Private Autonomy as to the Company Statutes and Party Autonomy as to the Company Law Applicable (Comparative Law) ........................................... 252
1. Contractual Freedom with Respect to the Articles of Incorporation ........................................ 252
   a) Comparative Law Overview ................................ 252
   b) Evaluation ...................................................... 253
Table of Contents

2. Party Autonomy (Choice of Law) ........................................ 255

III. Board (Comparative Law), .............................................. 255
1. One-Tier or Two-Tier Board ........................................ 255
2. Direction and Supervision: Two Related Functions .......... 258
   a) Germany and the United Kingdom as Two Design
      Alternatives ....................................................... 258
   b) Questions of Efficiency and the Extent of Responsibility .. 259
3. Employee Representation and Participation (at the Board
   Level) ........................................................................ 262
4. Duties of the Management ............................................. 265
   a) Duty of Care ......................................................... 265
   b) Remuneration and the Duty of Loyalty ...................... 267
   c) Liability ............................................................. 270

IV. Division of Powers Between the Board and the Shareholders’
Meeting (Comparative Law). ............................................ 271
1. Principle: Current Operation vs. Restructuring Measures
   and Changes to the Company Statutes ......................... 271
2. Most Significant Differences ........................................ 272
   a) Differences in Power to Appoint ........................... 272
   b) Differences in Decision-Making Power in Current
      Business (Mainly Accounts, Appointment of Auditors,
      Capital Measures) .................................................. 273
   c) Differences in Residual Powers in Management ........ 275
   d) Summary of Key Principles .................................... 275

§13. Members Participation Rights (Shareholders’ Rights Directive and
Comparative Law) ............................................................. 276

I. Comparative Law and Harmonisation (Shareholders’ Rights
Directive) ................................................................. 279
1. Only ‘Constitutional’ Rights Treated Until the Shareholders’
   Rights Directive ....................................................... 279
   a) Fragmentary Harmonisation and First Steps Towards
      Intensification ....................................................... 279
   b) Call for Greater Harmonisation .............................. 281
2. Focused Harmonisation of Voting Rights in the
   Shareholders’ Rights Directive ..................................... 284
3. Minimal Regulation in the European Company Statute
   (Renvoi) ................................................................... 287

II. Administration Rights (Shareholders’ Rights Directive and
Comparative Law) .......................................................... 288
1. General Meeting and Voting Rights as the Object of Reform
   Considerations ....................................................... 288

Intersentia xxiii
# Table of Contents

2. Convening and Attendance of a General Meeting .......................... 289  
a) Shareholders’ Rights Directive (Art. 5–7) ................................. 289  
b) Additional Comparative Law Aspects ................................. 295  
3. Information Rights .............................................................. 298  
a) Shareholders’ Rights Directive (Art. 9) ................................ 298  
b) Additional Comparative Law Aspects ................................. 299  
4. Right to Vote, Shareholder Voting Agreements and Proxy .......... 300  
a) Extent of Voting Power, Restrictions on Voting Power  
   and Shareholders Agreements (Comparative Law) ............... 301  
b) Voting by the Shareholder Himself (Art. 8 and 12  
   Shareholders’ Rights Directive) ...................................... 303  
c) Proxy Voting, Namely Organised Proxies (Art. 10, 11,  
   13 Shareholders’ Rights Directive) ................................ 305  
d) Publication of the Result (Art. 14 Shareholders’ Rights  
   Directive) .......................................................................... 309  
e) Summary ............................................................................. 310  
4. Action for Avoidance (Comparative Law) ................................. 311  

III. Pecuniary Rights (Comparative Law Overview) ......................... 314  
1. Determination of Profits ....................................................... 314  
2. Distribution of Profits ......................................................... 315  

IV. Minority Rights (Comparative Law Overview) ......................... 316  
V. Summary: Increase in Harmonisation and Some Typical  
   Differences .......................................................................... 317  

§14. Framework for Decision-Making (Comparative Corporate  
   Governance) ......................................................................... 318  
I. Concept, Scope and Regulatory Approaches ............................... 320  
1. Concept and Scope ................................................................ 320  
2. Regulators and Regulatory Approaches ................................ 323  
   a) Regulators .................................................................... 323  
   b) Regulatory Approaches .................................................. 329  
II. Important Governance Elements – Status of Harmonisation  
    and/or Comparative Law ...................................................... 331  
1. Data and Their Relevance ..................................................... 331  
   a) Relevance .................................................................... 331  
   b) Some Data on Shareholding and Supervision  
      Structures ..................................................................... 332  
2. Internal Governance (Voice) .................................................. 334  
   a) Goal of the Direction of the Company (Shareholder/  
      Stakeholder Value) ....................................................... 334  
   b) Decision-Makers and Their Behaviour as Starting  
      Point ........................................................................... 338  
   c) Formal Supervision and Liability .................................... 339
d) Other Influential Players (Institutional Investors, Auditors, Banks) .............................. 341

3. External Governance (Market, Exit) .................................................. 344
   a) Concept and Forms ................................................................. 344
   b) In Particular: Capital Markets (Disclosure) ......................... 345
   c) In Particular: Market for Corporate Control (with Takeovers) ........................................... 346

4. Accounting – Between Internal and External Governance ................ 347

III. Interplay Between Governance Elements .................................. 349
   1. Internal and External Governance ............................................. 349
   2. Different Levels of Influence (‘Supervision’) ......................... 350
      a) Principle .............................................................. 350
      b) In Particular: The Role of Providers of Financial Services ........................................... 352

CHAPTER 4.
PRESENTATION OF BUSINESS RESULTS ................................. 353

§15. Accounting in Profit Organisations (Core Concepts, Fourth Directive and Amendments) ............................... 353

I. Importance, Scope and Subject Matter ........................................ 356
   1. Importance of European Accounting Law – Overview ................ 356
      a) The Legal Measures of European Accounting Law .............. 356
      b) Information Function (EC/EU Law) ................................. 356
      c) Point of Reference Function (In the PLC and According to National Law) ......................... 359
   2. Legislative History and Importance of the Fourth Directive in Particular (Individual Company) ...................... 360
   3. Ambit of Application of the Fourth Directive and of European Accounting Law .................................. 363
      a) Limited Companies (with Exceptions and Extensions, Art. 1) ........................................... 363
      b) Graduated Differentiation – Not Dependent on Type but on Size and Public Trading (Art. 11, 27 et al.) ............. 364

II. Content and Principles of Accounting (Art. 2–7 et al.) ................. 366
   1. Accounts and the Parts to Be Included ..................................... 366
   2. Goals and Principles of Accounting ......................................... 367
      a) Goals .............................................................. 367
      b) Principles of Accounting and Valuation .................................. 369
III. Balance Sheet (Art. 8–21, 31–42D) .................................................. 371
   1. Layout of the Balance Sheet (Art. 6, 8–10, 13 et seq.) ............. 371
   2. Principles on Classification as Assets or Liabilities,
      Attribution to a Period and Valuation ................................ 373
      a) Core Questions and Influence of Accounting
         Philosophies .......................................................... 373
      b) Survey of Valuation .................................................. 374
      c) In Particular: Purchase Price and Production Cost vs.
         (Higher) Fair Value .................................................. 375
      d) In Particular: Depreciation and Appreciation in Value .... 377
   3. Assets – Individual Entries .................................................... 379
      a) Fixed Assets .......................................................... 380
      b) Current Assets ....................................................... 383
      c) Other Entries ......................................................... 385
   4. Financial Instruments (Art. 42a–d) .......................................... 385
   5. Liabilities – Individual Entries ................................................ 387
      a) Equity .................................................................. 387
      b) Provisions for Liabilities and Charges and Amounts
         Owed ................................................................. 388
      c) Other Entries ........................................................ 389
IV. Profit-and-Loss Account (Art. 22–30, 31–42D) ....................... 390
   1. Basic Idea and Four Alternative Modes of Presentation .......... 390
      a) Basic Idea ............................................................ 390
      b) Vertical Layout or Horizontal Layout ............................ 390
      c) Generic or Functional Accounts ................................... 391
   2. Result of Current Business Operation .................................... 392
      a) Operating Result (Income and Charges) ......................... 392
      b) Financial Result ..................................................... 393
      c) Result of Current Business Operation ............................. 393
   3. Extraordinary Profit or Loss and Profit or Loss for
      the Financial Year ....................................................... 393
V. Additional Indications ............................................................ 394
   1. Notes (Art. 43–45) .......................................................... 394
      of Changes in Equity, (Business and Geographical) Segments
      Report ................................................................. 396
VI. Liability, Auditing and Publication (Art. 47–51) .................... 398
VII. Transposition of the Fourth Directive from a Comparative Law
     Perspective ............................................................... 399
§16. Additional Accounting Rules for Groups of Companies
     (Seventh Directive) ....................................................... 401
I. Importance and Subject Matter ................................................ 402
# Table of Contents

## II. Scope of Application, Mainly Conditions for Consolidation
(Art. 1–15) ................................................................. 404
1. Scope of Application and Conditions for Consolidation .... 404
2. Conditions for Consolidation (Art. 1 et seq., 5, 7–15) .... 405
   a) Positive Conditions (Art. 1 et seq., 12) ............... 405
   b) Exemptions (Art. 5, 7–11, 13–15) .......... 407

## III. Adaptation Rules for Group Accounting ................. 408
1. Content, Principles and Layout of Accounting (Art. 16–18,
   22, 25, 27 et seq.) ........................................ 408
2. Principles on Classification as Assets and as Liabilities,
on Attribution to a Particular Period and on Valuation  
   (Art. 26, 29) ................................................. 409
3. Full Consolidation (Art. 19–21, 23, 26, 30 et seq.) .... 409
   a) Treatment of Participating Interests (Capital
      Consolidation and Statement of Third Party
      Participation) ........................................... 409
   b) Treatment of Business Operations (Intra-Group
      Transactions Consolidated and Statement of Share of
      Minority Shareholders) .............................. 410
4. Partial Consolidation and Equity Accounting where
   Conditions for Consolidation are Not Met (Art. 32 et seq.) . 411
5. Notes, Annual Report, Auditing and Publication  
   (Art. 34–38a) .............................................. 411

## IV. Transposition of the Seventh Directive from a Comparative
Law Perspective ....................................................... 412
§17. Auditing and Professional Standards for Auditors (Auditors’
Directive) .......................................................... 412
I. Importance, Scope and Subject Matter .................... 413
II. Rules for Approval of Auditors and Professional Standards  
   (Art. 3–14) .................................................... 415
   1. Structure .................................................. 415
   2. Requirements for Approval of Natural Persons as Auditors 415
III. Rules on Best Practice and Liability (Art. 21–28, 36a, 36b
   and 40) ....................................................... 417
IV. External and Internal Quality Control ....................... 421

§18. European and International Standards, IFRS – Special Regime
for Publicly Traded Groups ....................................... 422
I. Importance, Scope and Subject Matter .................... 425
   1. Uniformity, Progressivity and Equal Standing with
      the US as Core Objectives ....................... 425
   2. Scope and Subject Matter ......................... 428
<table>
<thead>
<tr>
<th>Chapter 2.</th>
<th>Law on Primary Markets (Issuing and Listing Shares and Bonds)</th>
<th>477</th>
</tr>
</thead>
<tbody>
<tr>
<td>§20. Disclosure Rules for Issuing and Listing Shares and Bonds (General Prospectus Directive)</td>
<td></td>
<td>477</td>
</tr>
<tr>
<td>I. History, Importance, Scope and Subject Matter</td>
<td></td>
<td>479</td>
</tr>
<tr>
<td>1. Acquis Communautaire and Struggle for a Codification of European Primary Market Law</td>
<td></td>
<td>479</td>
</tr>
<tr>
<td>a) From Individual Directives to a Stock Exchange Law Directive and Back Again</td>
<td></td>
<td>479</td>
</tr>
<tr>
<td>b) General Prospectus Directive</td>
<td></td>
<td>482</td>
</tr>
<tr>
<td>2. Economic Foundations of Primary Market Disclosure Philosophy</td>
<td></td>
<td>483</td>
</tr>
<tr>
<td>a) Efficient Capital Markets as a Consequence of Efficient Information Markets</td>
<td></td>
<td>483</td>
</tr>
<tr>
<td>b) Regulation Needed in Information Markets?</td>
<td></td>
<td>485</td>
</tr>
<tr>
<td>3. Scope of Application (Art. 1 et seq.)</td>
<td></td>
<td>487</td>
</tr>
<tr>
<td>a) Survey</td>
<td></td>
<td>487</td>
</tr>
<tr>
<td>b) Official Stock Exchange Trading – Complete Range of Duties</td>
<td></td>
<td>488</td>
</tr>
<tr>
<td>c) Other Regulated (Stock Exchange) Markets (Core Market Segment)</td>
<td></td>
<td>488</td>
</tr>
<tr>
<td>d) Duty to Issue a Prospectus in All Market Segments in the Case of a Public Offer</td>
<td></td>
<td>489</td>
</tr>
<tr>
<td>e) Exceptions</td>
<td></td>
<td>489</td>
</tr>
<tr>
<td>II. Duty To Draft a Prospectus and its Content</td>
<td></td>
<td>489</td>
</tr>
<tr>
<td>1. Duty to Issue a Prospectus (Art. 3 et seq.)</td>
<td></td>
<td>489</td>
</tr>
<tr>
<td>a) Admission to a Regulated Market (Art. 3(3))</td>
<td></td>
<td>490</td>
</tr>
<tr>
<td>b) Public Offer, Independently of Admission (Art. 3(1) and (2))</td>
<td></td>
<td>490</td>
</tr>
<tr>
<td>c) Exceptions (Art. 4)</td>
<td></td>
<td>492</td>
</tr>
<tr>
<td>2. Content of the Prospectus (Art. 5–12)</td>
<td></td>
<td>492</td>
</tr>
<tr>
<td>a) Depth and Clarity of the Prospectus – Summary (Art. 5)</td>
<td></td>
<td>492</td>
</tr>
</tbody>
</table>
CHAPTER 3.
LAW ON SECONDARY MARKETS (TRADING SHARES AND
BONDS) ................................................................. 525

§22. Best Practice Rules for Intermediaries (Markets in Financial
Instruments Directive) ........................................... 525
I. Importance, Scope, and Subject Matter ......................... 528
   1. Function of Secondary Markets and the Markets in
      Financial Instruments Directive ............................ 528
   2. Best Practice Rules in the MiFID in Particular .......... 529
II. Duty of Loyalty .................................................. 531
   1. Information Intermediaries as a Means of Reducing
      Principal-agent Problems ................................. 531
   2. Duty of Loyalty and Duty of Care ........................ 532
   3. Duty of Loyalty in Particular ............................. 533
III. Duty to Inform and Give Advice ................................ 534
   1. Information Intermediaries as a Means of Enhancing the
      Information Situation ................................. 534
   2. Information Rules ........................................... 535
      a) Duty to Investigate ....................................... 535
      b) Duty to Disclose .......................................... 537
      c) Mandatory Information Rules? ..................... 537
IV. Duty to Avoid Conflicts of Interests as a Preventive Measure . . 538
V. Transposition of the MiFid from a Comparative Law
   Perspective ....................................................... 540

§23. Ban on Insider Dealing and Market Manipulation, Ad Hoc
   Disclosure (Market Abuse Directive) .......................... 540
I. Importance, Scope and Subject Matter ......................... 543
   1. Market Abuse: Insider Dealing and Market Manipulation . 543
   2. Ban on Insider Dealing and Its Policy Background .... 543
   3. Market Manipulation as a Fall-Back Category (Within
      Market Abuse) and Preventing Insider Dealing via Ad Hoc
      Disclosure ......................................................... 546
II. Ban on Insider Dealing (Art. 1(1) and Art. 2–4) ........................................ 547
   1. Structure and Addressees .................................................. 547
   2. Elements of the Rule ...................................................... 549
      a) Inside Information (Art. 1(1)) .................................. 549
      b) Insider Instruments (Art. 1(3) and (4) and Art. 9) .......... 554
   3. Prohibitions (Art. 2–4) .................................................... 554
III. Ban on Market Manipulation (Art. 1(2), Art. 5) ................. 556
IV. Ad Hoc Disclosure and other Preventive Measures ............... 558
   1. Ad Hoc Disclosure (Art. 6(1–3)) ................................... 558
      a) Mere Prevention of Insider Dealing or General
         Instrument of Market Information? .............................. 558
      b) Elements of the Rule (Information to Be Disclosed) ..... 560
      c) Disclosure ............................................................... 561
      d) Exceptions (Art. 6(2)) .............................................. 561
   2. Other Preventive Measures (Art. 6(4–6)) ......................... 562
V. Transposition of the Market Abuse Directive from a
   Comparative Law Perspective .............................................. 562

CHAPTER 4.
TAX TREATMENT ................................................................. 565

§24. Taxing Capital Flows between Investor and Company (Company Tax,
      Transfer Stamp Duty and Capital Yield Tax) ........................ 565
I. Importance, Scope and Subject Matter ................................. 566
   1. Subject Matter and System .......................................... 566
   2. Scope, Function and Importance .................................... 566
II. Indirect Taxation (Company Tax Directive) .......................... 567
   1. Taxation of Contributions of Capital to Capital Companies
      (Art. 1–14 Company Tax Directive) ................................. 568
      a) Power to Tax ......................................................... 568
      b) Narrow Margins for Tax Basis and Rates ................. 568
   2. In Principle Prohibition of Taxation of the Issue of and
      Trade in Securities (Transfer Stamp Duties and Similar
      Taxes) ........................................................................ 570
III. More Recent Steps For Harmonising Direct Taxation
      (Return On Capital) ..................................................... 571
PART 4. CROSS-BORDER ESTABLISHMENT AND STRUCTURAL CHANGES

CHAPTER I. GENERAL QUESTIONS ........................................... 577

§25. Phenomena Covered And Questions Of Application ............... 577

I. Phenomena Covered .................................................. 581

1. Phenomena ......................................................... 581
   a) Structural Measures in One Company: Branches, Transfer of Seat ........................................... 581
   b) Structural Measures Between Companies: Mergers, Acquisitions, and Takeovers ................................. 582

2. Status Quo of Harmonisation ........................................ 584
   a) Branch ............................................................. 584
   b) Transfer of Seat, Merger, Takeover, Group of Companies ......................................................... 584

3. Functions ............................................................. 586
   a) Change of Applicable Law, Change of Place of Business, Growth ........................................... 586
   b) Change of Applicable Law and/or of Place of Business in Particular ............................................. 587
   c) Growth in Particular ............................................. 587

II. Questions of Application ................................................ 588

1. Survey on Conflict of Laws and Fundamental Freedoms and the Main Distinctions ................................. 588
   a) Interplay Between Conflict of Laws and Fundamental Freedoms ......................................................... 588
   b) Primary and Secondary Freedom of Establishment in Particular ......................................................... 592
   c) Daily Mail, Centros, Golden Shares, Überseering, Inspire Art, SEVIC, and Cartesio in Particular ........... 593

2. Application to Individual Structural Measures ....................... 610
   a) Branches (and Subsidiaries) ..................................... 610
   b) Transfer of Seat .................................................. 612
   c) Merger and Division ............................................. 621
   d) Takeover and Group of Companies ............................ 627
CHAPTER 2.
SECONDARY ESTABLISHMENT AND TRANSFER OF SEAT .......... 631

I. Importance, Regulatory Context And Subject Matter .......... 632
   1. Adaptation of the Disclosure Obligations of Unitary
      Enterprises (Including Reform Considerations) .......... 632
   2. Subsidiaries and Branches as the Two Main Types of
      Secondary Establishment ........................................ 634
   3. Corpus of Harmonisation on Branches and Subsidiaries .... 635
      a) Companies Register ...................................... 635
      b) Other General Company Law Acts ...................... 635
      c) Other General Company Law Measures, Projects and
         Developments ................................................... 636
      d) Sector-Specific Legal Measures ........................... 636
II. Disclosure by Branches (Eleventh Directive) ................. 637
   1. Scope of Application (Art. 1, 7 and 14) ...................... 637
   2. Means and Effects of Disclosure (Art. 1 and 6, 7 and 10) ... 638
   3. Items to be Disclosed ........................................ 639
      a) Branches from Another Member State (Art. 2–5) .... 639
      b) Branches from Third Countries (Art. 8 et seq.) ....... 641
   4. Transposition of the Eleventh Directive from a
      Comparative Law Perspective .................................. 641
§27. Transfer of Seat (Draft Proposal for a Fourteenth Directive) .... 642
I. Importance, Scope and Subject Matter ...................... 644
   1. Importance: Change of Applicable National Law and of
      Place of Business .............................................. 644
      a) Providing for Change of Applicable National Law and
         of Place of Business (Art. 3) .......................... 644
      b) Potential Welfare Gains of These Changes .............. 647
   2. Scope of Application: Types of Company Covered
      (Art. 1 et seq., 13) ........................................ 650
   3. Subject Matter: Transfer of Seat ............................. 651
II. Seat and Transfer of Seat (Art. 1 et seq., 11(2)) ............... 651
   1. Seat ......................................................... 651
   2. Transfer of Seat .............................................. 652
III. Transfer Procedure ........................................... 654
   1. Transfer Plan and Report (Art. 4 et seq.) .................. 655
   2. Transfer Resolution and Amendment of the Company’s
      Statutes (Art. 6) .............................................. 656
   3. Registration Procedures and Powers of Investigation
      (Art. 9–12) .................................................... 657
IV. In Particular: Protection of Shareholders, Creditors and the Public .............................................. 658
   1. (Minority) Shareholder Protection in the State of Origin
      (Art. 7) .................................................. 658
   2. Creditor Protection in the State of Origin (Art. 8) ........ 659
   3. Protection of the Public in the State of Destination (Art. 9) . 659
V. In Particular: Employee Protection and Tax Law ............ 660
   1. Employee Protection .................................... 660
   2. Tax Law .................................................. 661
      a) Obstacles Inherent in National Law .................... 661
      b) Eliminating the Obstacles Via Harmonisation or
         Application of Fundamental Freedoms ............... 662
VI. Conclusions ............................................... 664

CHAPTER 3.
MERGER AND DIVISION OF PUBLIC LIMITED COMPANIES .... 667

§28. National Merger and Division (Third and Sixth Directives) ...... 667
   I. Importance, Scope and Subject Matter ..................... 668
      1. Importance ............................................ 668
         a) Basic Act for Structural Changes .................. 668
         b) Functions of Merger and Division ................. 669
         c) Aims of the Merger and Division Directives .... 670
         d) Adoption and Legislative History ............... 671
      2. Scope of Application and Subject Matter ............. 672
         a) Personal Scope of Application (Art. 1 Merger Directive) 672
         b) Subject Matter (Substantive Scope of Application) .... 673
   II. Forms of Merger and Division ............................. 674
      1. Their Importance Within the Whole Area of European
         Merger Law ............................................. 674
      2. Merger, Division and the Measures Covered by the
         Directives ............................................. 674
         a) Merger and Merger of Wholly Owned Subsidiaries
            (Art. 2–4, 24 Merger Directive) ...................... 674
         b) Other Equivalent Measures Under the Merger Directive
            (Art. 30 et seq. Merger Directive) ................... 675
         c) Division and Other Equivalent Measures Under the
            Division Directive (Art. 1 et seq., 21, 24 et seq. Division
            Directive) ............................................ 676
      3. Types of Merger and Division in the Broad Sense Not
         Covered by the Directives ................................ 677
III. Merger Procedure, In Particular Information On Merger  . . . . 679
   1. Draft Terms of Merger and Explanatory Report  . . . . . . . 679
      a) First Important Instrument of Protection  . . . . . . . 679
      b) Draft Terms of Merger (Art. 5 et seq. Merger Directive) . 680
      c) Merger Report (Art. 9 Merger Directive)  . . . . . . 681
   2. Impartial Examination (Art. 10 Merger Directive)  . . . . . 682
      a) Second Important Instrument of Protection – Reliability of Information  . . . . . . . 682
      b) Experts’ Report on the Examination  . . . . . . . 682
   3. Inspection of Documents and Resolution by the General Assembly (Art. 7 et seq., 11 Merger Directive)  . . . . . . 683
      a) Inspection of Documents – Access to Information  . . . . 683
      b) Resolution by the General Meeting  . . . . . . . 684
   4. Registration Procedures and Powers of Investigation – Renvoi  . . . . . . . 684

IV. In Particular: Protection of Employees, Shareholders, Creditors and The Public  . . . . . . 685
   1. Employee and Shareholder Protection (Art. 12 Merger Directive)  . . . . . . 685
   3. Protection of the Public  . . . . . . 687

V. In Particular: Validity and Irregular Mergers  . . . . . . 687
   1. Approval or Authentication of the Merger (Art. 16 Merger Directive)  . . . . . . 687
   2. Validity and Effects of the Merger (Art. 17–19 Merger Directive)  . . . . . . 687
   3. Personal Liability (Art. 20 et seq. Merger Directive)  . . . . 688
   4. Nullity (Art. 22 Merger Directive)  . . . . . . . 688

VI. Largely Parallel Regime for Divisions  . . . . . . 689
   1. Orientation  . . . . . . 689
   2. Division Procedure (Art. 3–10 Division Directive)  . . . . . 691
   3. Protection of Employees, Shareholders, Creditors and the Public (Art. 11–13 Division Directive)  . . . . . . 692
   4. Validity and Nullity of the Division (Art. 14–19 Division Directive)  . . . . . . 693

VII. Transposition of the Third and Sixth Directives from a Comparative Law Perspective  . . . . . . 693
§29. International Merger (Cross-Border Mergers Directive)  . . . . . . 696
I. Importance, Scope and Subject Matter  . . . . . . 698
   1. Importance – Need for Cross-Border Mergers and Existing Possibilities  . . . . . . 698
      a) Need for Cross-Border Mergers  . . . . . . . 698
b) Serving These Needs by Harmonisation .................. 699

c) Existing Possibilities – With Renvoi ....................... 700

2. Scope of Application and Subject Matter (Art. 1 et seq.) .... 701
   a) Personal Scope of Application ............................. 701
   b) Substantive Scope of Application: Types of Merger Covered. .................................................. 702
   c) Regulating the Freedom of Establishment by Conflict of Law Rules and Some Specific Substantive Law Rules ... 703

II. Merger Procedure ............................................. 704
   1. Draft Terms of Cross-Border Merger and Explanatory Report (Art. 5 et seq.) ................................. 704
      a) Conflict of Laws ........................................ 704
      b) Specific Substantive Law for International Cases ('Adaptation') .............................................. 705
   2. Independent Expert Report (Art. 8) ........................... 706
   3. Inspection of Documents and Approval by the General Meeting (Art. 6 and 9) .................. 706

III. In Particular: Protection Of Employees, Shareholders, Creditors And The Public ................................. 707
   1. Employee Protection (Art. 16) ................................ 707
   2. Other Interests Protected .................................. 708
      a) Conflict of Laws ........................................ 708
      b) Specific Substantive Law for International Cases ('Adaptation') .............................................. 708

IV. In Particular: Validity And Irregular Mergers ................ 709
   1. Control and Validity (Art. 10–14) ............................ 709
      a) Conflict of Laws ........................................ 709
      b) Specific Substantive Law for International Cases ('Adaptation') .............................................. 710
   2. Liability .................................................... 710
   3. Nullity (Art. 17) ........................................... 710

V. Tax Treatment – Renvoi ....................................... 711

VI. Transposition – Comparative Law ............................... 711

CHAPTER 4.
TAKEOVER OF PUBLIC LIMITED COMPANIES AND GROUPS OF COMPANIES ........................................ 713

§30. Takeover and Formation of a Group of Companies (Thirteenth Directive) ........................................... 713
   I. Importance, Scope and Subject Matter ........................ 717
      1. Phenomena and Importance ............................ 717
Table of Contents

a) Takeover and Merger as Instruments of External Growth ............................................ 717  
b) Centrepiece of the System of European Company Law .............................................. 718  
c) Practical Importance ................................................. 719  
d) Elimination of Obstacles ............................................. 720  

2. Legislative History ................................................................. 720  
3. Scope of Application (Art. 1 et seq.) ............................................................... 723  

II. General Principles and Survey of Takeover Procedure (Directive) ................................................. 724  
1. General principles (Art. 3) ............................................................... 724  
2. Survey of Takeover Procedure ............................................................... 724  

III. In Particular: Protection of Employees and Shareholders (Art. 5–8, 13 Et Seq.) ............................................................... 725  
1. Survey and Points of Reference ............................................................... 725  
2. Equal Treatment – the Mandatory Bid (Art. 5, 7, 13) ........................................... 726  
   a) Economic Considerations ............................................................... 726  
   b) Existence of a Mandatory Bid (Art. 5(1–3)) ........................................ 729  
   c) Compensation (Art. 5(4–5)) ............................................................... 730  
   d) Other Questions Concerning the Bid (Art. 7 and 13) ................................ 731  
3. Transparency of the Bid (Art. 6 and 8) ............................................................... 732  
   a) Detailed Material on the Bid (‘Takeover Report’, Art. 6(2–4)) ............................ 732  
   b) Disclosure and Examination of Bid and Offer Document (Art. 6(1), (2) and (5) and Art. 8) ............................................................... 732  
4. Other Safeguards (Art. 5(6), Art. 14) ............................................................... 735  
5. Comparative Law Survey ............................................................... 736  

IV. In Particular: Defensive Measures In The Target Company (Art. 9–11) ............................................................... 738  
1. Economic Considerations ............................................................... 738  
   a) Power to Decide on Defensive Measures ............................................................... 738  
   b) In Particular: Defensive Measures and Rival Bids ............................................................... 740  
2. Powers of the General Meeting and Information, Passivity Rule (Art. 9) ............................................................... 741  
   a) Shift of Competence (Art. 9(2–4)) ............................................................... 741  
   b) Improving the Information Situation by a Duty to Comment (Art. 9(5)) ............................................................... 743  
   c) Comparative Law Survey ............................................................... 744  
3. Disclosure of Obstacles to Takeovers (Art. 10) ............................................................... 746  
   a) Basic Idea and Main Lines of Regulation ............................................................... 746  
   b) List of Arrangements to be Disclosed (Art. 10(1)) ............................................................... 747  
4. Inapplicability of Some Arrangements Frustrating Takeovers (Art. 11) ............................................................... 748
Table of Contents

5. Model with Options (Art. 12) ................................. 750

V. Squeeze-Out and Sell-Out Rights (Art. 15 et seq.) ................. 751
   1. Directive ................................................. 751
      a) Existence of a Squeeze-Out Right and a Sell-Out Right ... 751
      b) Compensation ...................................... 752
   2. Comparative Law Survey .................................. 753

I. Importance and Subject Matter ................................ 756
   1. Subject Matter ......................................... 756
      a) Formation of a Group and Existing Group ................. 756
      b) Variety of Types of Group .............................. 759
   2. Importance .............................................. 760
      a) Practical Importance .................................. 760
      b) Importance in the Internal Market and Elimination of Obstacles .................................. 761
   3. Status Quo of the Discussion and Regulation ................... 762
      a) Status Quo of the Discussion ............................ 762
      b) Regulation of Specific Aspects .......................... 765

II. Scope of Application (Comparative Law and Approaches to Regulation) ................................................. 766
   1. Types of Company Covered ................................ 766
   2. Different Concepts of a Group ................................ 767
      a) Normal Prerequisites for a Group .......................... 768
      b) Modulations and Intensified Form of a Group ............. 770

III. Efficient Management of the Group (Comparative Law and Approaches to Regulation) ......................................... 770
   1. Interests of the Group and Interests of the Own Company – Power to Give Instructions ......................... 770
      a) Simple Acquisition of Control ............................ 770
      b) Specific Regulation via Group Agreement .................. 774
   2. Squeeze-Out – Renvoi ...................................... 776

IV. Protection of Minorities and Creditors in The Group (Comparative Law and Approaches to Regulation) ................................................. 777
   1. Possible Addressees of Protection in the European Discussion ................................................. 777
   2. Exit via Mandatory Bid and Sell-Out Right – Renvoi ......... 777
   3. Voice and Compensation in the Existing Group ................ 778
      a) Special Report and Special Audit .......................... 779
      b) General Liability and Compensation Rules .................. 780
      c) Individual Rights ...................................... 781

Intersentia xxxix
CHAPTER 5.
TAX TREATMENT .......................................................... 783

§32. Taxation of Cross-Border Structural Changes (With the Merger Tax
Directive and the Parent-Subsidiary Taxation Directive) ............... 783
I. Importance, Scope And Subject Matter ................................. 786
II. Mergers, (Partial) Divisions, Transfer of (Parts of) Production
Units and Exchange of Shares (Merger Tax Directive) ............ 789
   1. Personal Scope of Application (Art. 3) ....................... 789
   2. Structural Measures Covered (Art. 1 et seq.) ............... 790
      a) Merger and (Partial) Division in the Narrow Sense ...... 790
      b) Transfer of (Parts of) Production Units ................. 791
      c) Exchange of Shares and Takeovers ..................... 791
      d) Cross-Border Transfer of Seat (Application by
         Analogy)? ..................................................... 792
   3. Overview of the Tax Regime (Art. 4–10) ..................... 792
      a) Key Problem and Basic Idea ............................. 792
      b) Tax Neutrality at the Level of the Company
         (Art. 4–7, 9 et seq.) ...................................... 793
      c) Tax Neutrality at the Level of the Shareholders (Art. 8) . 794
   4. Direct Application (see Art. 15) ................................ 795
III. Combating Double Taxation in Groups of Companies
(Parent-Subsidiary Taxation Directive, Arbitration Convention,
and Interest and Royalty Payments Directive) .................... 795
   1. Scope of Application (Art. 2 et seq.) ....................... 795
   2. Overview of the Tax Regime (Art. 4–7) ..................... 796
   3. Arbitration Convention and Standardisation of Intra-
      Group Chargeable Prices .................................. 798
   4. Interest and Royalty Payments Directive ................... 799
IV. Recent And Pending Projects For Corporate Taxation,
Especially With Respect To Cross-Border Organisation Of
Companies ............................................................... 799

PART 5. SUPRANATIONAL TYPES OF COMPANY

§33. European Company (Societas Europaea) .......................... 805
   I. History, Importance and Interplay With National Laws ........ 811
      1. History .................................................. 811
      2. Importance ............................................. 814
         a) Expected Welfare Gains ............................. 814
         b) Diversity and Unity: Problem or Chance ......... 817

xl

Intersentia
# Table of Contents

3. Interplay Between the European Company Statute, Harmonised Law and Other National Law (Art. 9 et seq. of the Regulation et al.) ........................................ 817  
   a) Rules on the Interplay ........................................ 817  
   b) National Implementation .................................. 818  
   c) Overview of the Unified Rules (European Company Regulation) .................................................. 820  

II. Formation of the European Company .......................... 821  
1. Numerus Clausus and Common Rules (Art. 2 et seq., 11–16 of the Regulation) .................................. 821  
   a) Restricted Number of Possible Means of Formation (Art. 2 et seq.) ........................................ 821  
   b) Common Rules, Particularly Registration (Art. 11–16 of the Regulation) ..................................... 824  
2. Merger (Art. 2(1), 17–31 of the Regulation) .................. 826  
3. Holding Company and Subsidiary (Art. 2(2) and (3), 32–36 of the Regulation) ...................................... 828  
4. Conversion (Art. 2(4), 37 of the Regulation) .................. 829  

III. Transfer of Seat and Cross-Border Merger of the European Company .......................................................... 830  
1. Seat and Cross-Border Transfer of Seat (Art. 7 et seq., 64 of the Regulation) ...................................... 830  
   a) Seat and Transfer of Seat ..................................... 830  
   b) Procedure for a Transfer of Seat .............................. 831  
   c) Interests Protected ............................................ 832  
2. Cross-Border Merger (Art. 3(1), 2(1), 17–31 of the Regulation) ....................................................... 833  

IV. Structure of the European Company .............................. 835  
1. Capital (Art. 4 et seq. of the Regulation) ........................ 835  
2. Board (Art. 38–51 of the Regulation) .......................... 836  
   a) Structure and Survey (Art. 38) ............................... 836  
   b) Powers, Management and Supervisory Function, and Namely the One-Tier Model (Art. 39(1), 40(1), 41, 43(1), 44, 48) ............................................. 836  
   c) Number, Appointment and Removal of the Board Members (Art. 39(2–4), 40(2) and (3), 43(2) and (3), 46 et seq. of the Regulation) ..................... 841  
   d) Conduct of Business (Art. 42, 45, 49–51 of the Regulation) ................................................................. 843  
3. General Meeting (Art. 38, 52–60 of the Regulation) ........ 844  

V. Employee Participation in the European Company (Employee Involvement Directive) ................................. 845
Table of Contents

1. History and Basic Principle ........................................... 845
2. Negotiated Arrangements ........................................... 848
3. Standard Solution ................................................... 850
4. The Result: a European Employee Participation Regime .... 852

VI. Tax Treatment of the European Company .................... 853
1. Overall Picture – No Specific Tax Regime .................... 853
   a) Application of the General Tax Regime ................. 853
   b) Problematic Areas ............................................. 854
2. Formation as a Holding Company or Subsidiary or by
   Conversion .......................................................... 854
3. Formation by Merger and Subsequent Cross-Border
   Merger or Transfer of Seat – Renvoi .......................... 855
4. Taxation of Current Business Operations ...................... 855

§34. European Economic Interest Grouping (EEIG Regulation) and Other
Projects for Supranational Types of Company .................. 856

I. European Economic Interest Grouping (EEIG Regulation) .... 861
1. History, Importance, and Interplay with National Laws .... 861
   a) History and Importance ..................................... 861
   b) Interplay Between the EEIG Statute, Law of the Seat
      and Formation Contract (Art. 2, 12) ...................... 862
2. Type of Company and Restriction of Possible Uses
   (Art. 1(2) and (3) and Art. 3, 23) .............................. 864
3. Formation of the EEIG and Transfer of Seat (Art. 4–14) .... 865
   a) Founders and the International Element (Art. 4) ...... 865
   b) Formation Contract and Party Autonomy (Art. 5) ....... 866
   c) Registration, Disclosure and Validity (Art. 6–11, 15, 39) 867
   d) Transfer of Seat and Other Cross-Border Structural
      Changes (Art. 12–14) ........................................... 867
4. Structure and Current Business Operation ..................... 868
   a) Organs, Powers and Representation (Art. 16, 19
      et seq., 23, 25) .................................................. 868
   b) Members (Art. 22, 26–30, 33 et seq., 37) ............... 868
   c) Rights, Duties and Liability of Members (Art. 17
      et seq., 21, 24, 33 et seq., 37) .............................. 869
   d) Questions Outside Company Law (Art. 38, 40) ........... 870
5. Winding Up and Liquidation (Art. 31–37) ......................... 870

II. Plans for a European Private Limited Company and other
Supranational Types of Company ................................. 871
1. European Private (Limited) Company ........................ 871
   a) Status of Preparatory Work ................................ 871
   b) Applicable Law (and Company Statutes) ................. 873
   c) Formation and Requirements for Formation ............ 876
PART 6. WINDING-UP AND INSOLVENCY

§35. Cross-Border Insolvency of Business Undertakings (Regulation on International Insolvency Proceedings) ........................................ 887

I. Importance, Scope and Subject Matter .............................. 889
   1. Increasing Legal Certainty in Cross-Border Corporate Insolvency .................................................. 889
      a) Problem and Regulatory Approach ............................. 889
      b) Universality, Territoriality, Far-Reaching Concentration ........................................ 890
   2. Legal Measures, in Particular the European Insolvency Proceedings Regulation .................................................. 892
      a) Regulatory Initiatives Worldwide and in the European Community ........................................ 892
      b) European Insolvency Proceedings Regulation .......... 893
   3. Scope of Application of the European Insolvency Proceedings Regulation ........................................ 893
      a) Insolvency Proceedings (Art. 1(1)) ................................. 893
      b) Exceptions and Limits of the Principle of Concentration (Art. 1(2) and Art. 3) ................................. 894

II. Main Proceedings and Ancillary Proceedings – Admissibility and Jurisdiction (Art. 3) ................................. 896
   1. Main Proceedings .......................................................... 896

III. Applicable Law and Some Substantive Law Rules (Core Questions) .................................................. 902
   1. Applicable Law (Art. 4–15) ............................................ 902
      a) Lex Concursus as Principle (Art. 4) ................................. 902
      b) Exception: Potential Securities for Creditors (Art. 5–7) ........................................ 903
      c) Exception: Potentially Privileged Contracts (Art. 8–10) ........................................ 905
      d) Exception: Potential Rule on Detrimental Acts and Consequences of Sequestration (Art. 13–15) .... 905
3. Application of the Other European Company Law Measures as Well ........................................ 928

II. Reduced Regulation of other Types of (Limited) Companies (Private Limited Company, Partnership Limited by Shares, in Tax Law also the Mining Company and Similar Types) ........ 928
1. Application only of the Rules on Third Party Relationships and Taxation ........................................ 928
   a) First, Fourth, Seventh, Eighth and Eleventh Directives, but not Second Directive (Third Party Relationship) .... 928
   b) Tax Law ........................................ 929
2. No Application of the Rules on 'Constitutional' Shareholder Rights and Restructuring ........................................ 929

III. Minimal Regulation of other National Types of Organisation .... 930
1. Fundamental Freedoms and Related Measures or Projects .... 931
2. Harmonisation only in Accounting Law ......................... 932
3. Insolvency Proceedings Law ........................................ 932

IV. Regulation on Supranational Types of Company ......................... 933

V. Consistency of the System? ........................................ 933
1. Harmonised and Non-Harmonised Areas: Well-Distributed (External System)? ........................................ 933
   a) Liberalisation and Transparency of Financial and Economic Status as the Core Principles ......................... 933
   b) Legitimization of Harmonisation (Only) in the Law of the Limited Company ........................................ 934
   c) Reasons for Differentiating Within the Law of the Limited Company ........................................ 935
   d) Hard Cases ........................................ 936
2. Are These Principles Carried Through Consistently? .......... 938

VI. Regulatory Principles (Internal System) ........................................ 938
1. Integration Model: Minimum Harmonisation and Preference Given to Integration-Enhancing Solutions ........ 938
2. Information Model ........................................ 940
3. Equal Treatment and Protection of Minorities Model .......... 941
4. Capital Market Orientation ........................................ 941
5. Third Party Orientation ........................................ 942

VII. Crisis, Boom and the Future? ........................................ 942
1. Crisis ........................................ 942
2. Boom after 1999 ........................................ 943
3. Future? ........................................ 944
Table of Contents

CHRONOLOGICAL TABLE OF ECJ CASES ............................................ 947

GENERAL BIBLIOGRAPHY ......................................................... 955
1. General Bibliography on European Company Law (Selection) ........ 955
2. Selected Company Law Contributions in Important Member States
   (Comparative Bibliography See §3 N. 10, §§12 et seq.) ............... 960

ANALYTICAL INDEX ............................................................... 961
## LIST OF ABBREVIATIONS

**A.2d**  
*Atlantic Reporter* (Second Series) (volume, page, jurisdiction [ultimate instance, if not stated otherwise] and year)

**AC**  
Appeal Cases

**AcP**  
*Archiv für civilistische Praxis* (volume, year and page)

**AG**  
*Die Aktiengesellschaft – Zeitschrift für das gesamte Aktienwesen* (year and page);

**AG**  
Aktiengesellschaft (Geman public limited company)

**AJCL**  
*Australian Journal of Corporate Law* (volume, year and page)

**AJCompL**  
*American Journal of Comparative Law* (volume, year and page)

**AktG**  
German Aktiengesetz of 6.9.1965, BGBl. 1965 I, 1089

**All ER**  
*The All England Law Reports* (year, part and page)

**AMF**  
Autorité des Marchés Financiers

**APB**  
Accounting Principles Board

**App.Ct.**  
Appelate Court or Court of Appeal

**Art., art.**  
Article

**BaFin**  
Bundesaufsichtsamt für Finanzdienstleistungen

**BAnz.**  
*Bundesanzeiger* (year and page)

**BayObLG**  
Bayerisches Oberstes Landesgericht (Bavarian Appeal Court)

**BB**  
*Der Betriebs-Berater* (year and page)

**B.C.L.C.**  
*British Company Law Cases*

**BFuP**  
*Betriebswirtschaftliche Forschung and Praxis* (volume, year and page)

**BGB**  
*Bürgerliches Gesetzbuch* (German Civil Law) of 18.8.1896, RGBl. 1896, 195, BGBl. III 400–2

**BGBl. I, II, III**  
*Bundesgesetzblatt*, part I, part II, part III (year and page, except III)

**BGH**  
Bundesgerichtshof

**BGHZ**  
*Entscheidungen des Bundesgerichtshofs in Zivilsachen* (volume and page), since 1951

**BIFD**  
*Bulletin of International Fiscal Documentation* (year, volume and page)

**BJIBFL**  
*Butterworths Journal of International Banking and Financial Law* (year, volume and page)
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>BKR</td>
<td>Zeitschrift für Bank- and Kapitalmarktrecht (year and page)</td>
</tr>
<tr>
<td>BörsG</td>
<td>Börsengesetz (German Stock Exchange Law) as published on 27.5.1908, RGBl. 1908, 215, BGBl. III 4110–1</td>
</tr>
<tr>
<td>BörsZulV</td>
<td>Verordnung über die Zulassung von Wertpapieren zur amtlichen Notierung an einer Wertpapierbörse (Börsenzulassungs-Verordnung – Decree on admission of securities to a Stock Exchange) of 15.4.1987, BGBl. 1987 I, 1234</td>
</tr>
<tr>
<td>BR-Drucks.</td>
<td>Bundesrats-Drucksache</td>
</tr>
<tr>
<td>BStBl. II</td>
<td>Bundessteuerblatt, part II (year and page)</td>
</tr>
<tr>
<td>BT-Drucks.</td>
<td>Bundestags-Drucksache</td>
</tr>
<tr>
<td>Bull.EC</td>
<td>Bulletin of the European Communities</td>
</tr>
<tr>
<td>Bull. Joly</td>
<td>Bulletin Joly (year and page)</td>
</tr>
<tr>
<td>Bus.L.R.</td>
<td>Business Law Review (volume, year and page)</td>
</tr>
<tr>
<td>BuW</td>
<td>Betrieb und Wirtschaft, Zeitschrift für Rechnungswesen, Steuern, Wirtschafts-, Arbeits- and Sozialrecht im Betrieb (year and page)</td>
</tr>
<tr>
<td>BVerfG</td>
<td>Bundesverfassungsgericht (German Constitutional Court)</td>
</tr>
<tr>
<td>BVerfGE</td>
<td>Entscheidungen des Bundesverfassungsgerichts (volume and page)</td>
</tr>
<tr>
<td>BW</td>
<td>Burgerlijk wetboek</td>
</tr>
<tr>
<td>C.A.</td>
<td>English Court of Appeal</td>
</tr>
<tr>
<td>Cal. L. Rev.</td>
<td>California Law Review (volume, year and page)</td>
</tr>
<tr>
<td>Cass. (Com.)</td>
<td>Cour de Cassation (Chambre commerciale)</td>
</tr>
<tr>
<td>Cass. Civ.</td>
<td>Cour de Cassation, Chambre civile (number)</td>
</tr>
<tr>
<td>Cass.crim.</td>
<td>Cour de Cassation, Chambre criminelle</td>
</tr>
<tr>
<td>C.C.</td>
<td>Code Civil; Codice Civile</td>
</tr>
<tr>
<td>CDE</td>
<td>Cahiers de droit européen (year and page)</td>
</tr>
<tr>
<td>CESR</td>
<td>Committee of European Securities Regulators</td>
</tr>
<tr>
<td>cf.</td>
<td>confer</td>
</tr>
<tr>
<td>CFiLR</td>
<td>Company Financial and Insolvency Law Review (volume, year and page)</td>
</tr>
<tr>
<td>ch./chap.</td>
<td>Chapter</td>
</tr>
<tr>
<td>CLJ</td>
<td>Cambridge Law Journal</td>
</tr>
<tr>
<td>CMLR</td>
<td>Common Market Law Review (volume, year and page)</td>
</tr>
<tr>
<td>COB</td>
<td>Commission des Opérations en Bourse</td>
</tr>
<tr>
<td>COD</td>
<td>Abbreviation of documents of the European Commission</td>
</tr>
<tr>
<td>Col. LR</td>
<td>Columbia Law Review (year, volume and page)</td>
</tr>
<tr>
<td>COM</td>
<td>document(s) of the Commission of the European Communities (year, number and page)</td>
</tr>
</tbody>
</table>
List of Abbreviations

Consob  Commissione Nazionale per le Società e la Borsa (Italian supervisory authority)

Cornell L.Rev.  Cornell Law Review (volume, year and page)

Corp.  Corporation

DAL  Abbreviation of the documents of the Italian supervisory authority (Consob)

DB  Der Betrieb (year and page)

DBW  Die Betriebswirtschaft (volume, year and page)

DJT  Proceedings of the German Lawyers’ Forum (Deutscher Juristentag: number, year, volume [before 1945] and page [since 1972 with specific letters indicating expert opinions, lectures and sessions])

DNotZ  Deutsche Notar-Zeitschrift – Verkündungsblatt der Bundesnotarkammer (year and page)

Doc.  Document

Doc. Com.  Documents of the Commission (reference and date)

DRrz  Deutsche Richterzeitung (year and page)

DStR  Deutsches Steuerrecht – Zeitschrift für Praxis und Wissenschaft des gesamten Steuerrechts (year and page)

DSWR  Datenverarbeitung, Steuer, Wirtschaft, Recht – Zeitschrift für die Praxis der EDV (year and page)

DTI  Department of Trade and Industry

DVBl.  Deutsches Verwaltungsblatt (year and page)

DZWr  Deutsche Zeitschrift für Wirtschaftsrecht (year and page)

EBLR  European Business Law Review (year, volume and page)

EBOR  European Business Organization Review (volume, year and page)

EC  EC Treaty (as amended by the Treaty of Amsterdam); European Community/Communities

ECL  European Company Law (year, volume and page)

EC Treaty  Treaty establishing the European Economic Community of 25.3.1957; later Treaty establishing the European Community as amended by the Treaty on the European Union of 7.2.1992

ECFR  European Company and Financial Law Review (volume, year and page)

ECJ  European Court of Justice; also: decisions of the European Court of Justice (case number, year, volume and page)

ECLR  European Competition Law Review (year, volume and page)

ECOSOC  Economic and Social Committee

ECR  European Court Reports

ed./eds.  Editor(s)
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ed.</td>
<td>Edition</td>
</tr>
<tr>
<td>EEA</td>
<td>European Economic Area</td>
</tr>
<tr>
<td>EEC</td>
<td>European Economic Community</td>
</tr>
<tr>
<td>EEIG</td>
<td>European Economic Interest Grouping</td>
</tr>
<tr>
<td>EFTA</td>
<td>European Free Trade Association</td>
</tr>
<tr>
<td>EGBGB</td>
<td>Einführungsgesetz zum Bürgerlichen Gesetzbuch (Introductory Act to the German Civil Code) of 18.8.1896, RGGBl. 1896, 604, BGBl. III 400–1</td>
</tr>
<tr>
<td>EG-Doc.</td>
<td>see SEK</td>
</tr>
<tr>
<td>EGInsO</td>
<td>Einführungsgesetz zur Insolvenzordnung (Introductory Act to the German Insolvency Code) of 5.10.1994, BGBl. 1994 I, 2911</td>
</tr>
<tr>
<td>EIRR</td>
<td>European Industrial Relations Review (year and page)</td>
</tr>
<tr>
<td>ELJ</td>
<td>European Law Journal</td>
</tr>
<tr>
<td>ELR</td>
<td>European Law Review (year, volume and page)</td>
</tr>
<tr>
<td>EMU</td>
<td>European Monetary Union</td>
</tr>
<tr>
<td>ER</td>
<td>The English Reports (year of decision, volume and page)</td>
</tr>
<tr>
<td>ERPL</td>
<td>European Review of Private Law (year, volume and page); also ERPL/REDC</td>
</tr>
<tr>
<td>ESCB</td>
<td>European System of Central Banks</td>
</tr>
<tr>
<td>ESMA</td>
<td>European Securities and Markets Authority</td>
</tr>
<tr>
<td>et al.</td>
<td>and others</td>
</tr>
<tr>
<td>et seq., et seqq.</td>
<td>and the following (s./ pl.)</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EuGRZ</td>
<td>Europäische Grundrechte Zeitschrift (year and page)</td>
</tr>
<tr>
<td>EuR</td>
<td>Europarecht (year and page)</td>
</tr>
<tr>
<td>EuZW</td>
<td>Europäische Zeitschrift für Wirtschaftsrecht (year and page)</td>
</tr>
<tr>
<td>EWS</td>
<td>Europäisches Wirtschafts- und Steuerrecht – Betriebs-Berater für Europarecht (year and page)</td>
</tr>
<tr>
<td>F.2d</td>
<td>Federal Reporter (Second Series) (volume, page, circuit and year)</td>
</tr>
<tr>
<td>FASB</td>
<td>Financial Accounting Standards Board</td>
</tr>
<tr>
<td>Fn.</td>
<td>Footnote(s)</td>
</tr>
<tr>
<td>FR</td>
<td>Finanz-Rundschau Ertragsteuerrecht (year and page)</td>
</tr>
<tr>
<td>FSA</td>
<td>Financial Services Authority</td>
</tr>
<tr>
<td>FSMA</td>
<td>Financial Services and Markets Act</td>
</tr>
<tr>
<td>GAAP</td>
<td>see US-GAAP</td>
</tr>
<tr>
<td>GbR</td>
<td>Gesellschaft bürgerlichen Rechts (German non-trading partnership)</td>
</tr>
<tr>
<td>German L.J.</td>
<td>German Law Journal (volume, year and page)</td>
</tr>
<tr>
<td>GesRZ</td>
<td>Der Gesellschafter, Zeitschrift für Gesellschaftsrecht (year and page)</td>
</tr>
</tbody>
</table>

ed. = Edition
F.2d = Federal Reporter (Second Series) (volume, page, circuit and year)
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geo.L.J.</td>
<td>Georgetown Law Journal (volume, year and page)</td>
</tr>
<tr>
<td>GroßkommGmbHG</td>
<td>Großkommentar zum Gesetz betreffend die Gesellschaften mit beschränkter Haftung (author, volume, paragraph)</td>
</tr>
<tr>
<td>GroßkommAktG</td>
<td>Großkommentar zum Aktiengesetz (author, volume, paragraph)</td>
</tr>
<tr>
<td>GmbH</td>
<td>Gesellschaft mit beschränkter Haftung (German private limited company)</td>
</tr>
<tr>
<td>GmbHHG</td>
<td>Gesetz betreffend die Gesellschaften mit beschränkter Haftung (German Act on private limited companies) of 20.4.1892, RGBl. 1892, 477, BGBl. III 4123–1</td>
</tr>
<tr>
<td>GRUR</td>
<td>Gewerblicher Rechtsschutz und Urheberrecht (year and page)</td>
</tr>
<tr>
<td>GRUR Int.</td>
<td>Gewerblicher Rechtsschutz und Urheberrecht, International Part (year and page)</td>
</tr>
<tr>
<td>G.U. [suppl.]</td>
<td>Gazetta Ufficiale [supplemento] (number)</td>
</tr>
<tr>
<td>Harv. Int.L.J.</td>
<td>Harvard International Law Journal (volume, year and page)</td>
</tr>
<tr>
<td>Harv. L. Rev.</td>
<td>Harvard Law Review (volume, year and page)</td>
</tr>
<tr>
<td>HGB</td>
<td>Handelsgesetzbuch (German Commercial Act) of 10.5.1897, RGBl. 1897, 219, BGBl. III 4100–1</td>
</tr>
<tr>
<td>HL</td>
<td>House of Lords</td>
</tr>
<tr>
<td>Hofstra L. Rev.</td>
<td>Hofstra Law Review (volume, year and page)</td>
</tr>
<tr>
<td>IAS</td>
<td>International Accounting Standards (accounting method)</td>
</tr>
<tr>
<td>IASC</td>
<td>International Accounting Standards Committee</td>
</tr>
<tr>
<td>ibid.</td>
<td>ibidem</td>
</tr>
<tr>
<td>ICCLJ</td>
<td>International and comparative corporate law journal (volume, year and page)</td>
</tr>
<tr>
<td>I.C.C.L.R.</td>
<td>International Company &amp; Commercial Law Review (volume, year and page)</td>
</tr>
<tr>
<td>ICLQ</td>
<td>International and Comparative Law Quarterly (volume, year and page)</td>
</tr>
<tr>
<td>id.</td>
<td>idem</td>
</tr>
<tr>
<td>i.e.</td>
<td>id est</td>
</tr>
<tr>
<td>IFLR</td>
<td>International Financial Law Review (year and page)</td>
</tr>
<tr>
<td>IFRS</td>
<td>International Financial Reporting Standards (accounting method)</td>
</tr>
<tr>
<td>ILJ</td>
<td>Industrial Law Journal (volume, year and page)</td>
</tr>
<tr>
<td>Ill.</td>
<td>Illinois</td>
</tr>
<tr>
<td>Inc.</td>
<td>Incorporation/Incorporated</td>
</tr>
<tr>
<td>InsO</td>
<td>Insolvenzordnung (German Insolvency Act) of 5.10.1994, BGBl. 1994 I, 2866</td>
</tr>
<tr>
<td>Insolvency L.J.</td>
<td>Insolvency Law Journal (volume, year and page)</td>
</tr>
</tbody>
</table>

Interessen
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intro.</td>
<td>Introduction</td>
</tr>
<tr>
<td>IOSCO</td>
<td>International Organization of Securities Commissions</td>
</tr>
<tr>
<td>IPRax</td>
<td><em>Praxis des internationalen Privat- und Verfahrensrechts</em> (year and page)</td>
</tr>
<tr>
<td>IsR</td>
<td><em>Internationales Steuerrecht</em> (year and page)</td>
</tr>
<tr>
<td>IWB</td>
<td><em>Internationale Wirtschaftsbriefe, Zeitschrift für internationales Steuer- und Wirtschaftsrecht</em> (number and tray)</td>
</tr>
<tr>
<td>JA</td>
<td><em>Juristische Arbeitsblätter – Ausbildung, Examen, Fortbildung</em> (year and page)</td>
</tr>
<tr>
<td>Jbf.NPÖ</td>
<td><em>Jahrbuch für Neue Politische Ökonomie</em> (volume, year and page)</td>
</tr>
<tr>
<td>JBl.</td>
<td><em>Juristische Blätter</em> (year and page)</td>
</tr>
<tr>
<td>JBL</td>
<td><em>Journal of Business Law</em> (volume, year and page)</td>
</tr>
<tr>
<td>JCLS</td>
<td><em>Journal of Corporate Law Studies</em> (volume, year and page)</td>
</tr>
<tr>
<td>JCMS</td>
<td><em>Journal of Common Market Studies</em> (volume, year and page)</td>
</tr>
<tr>
<td>JDI</td>
<td><em>Journal de droit international</em> (year and page)</td>
</tr>
<tr>
<td>JIBL</td>
<td><em>Journal of International Banking Law</em> (volume, year and page; now: <em>Journal of International Banking Law and Regulation</em>)</td>
</tr>
<tr>
<td>JIBLR</td>
<td><em>Journal of International Banking Law and Regulation</em> (volume, year and page; since 2003)</td>
</tr>
<tr>
<td>JITE</td>
<td>see ZgS/JITE</td>
</tr>
<tr>
<td>JJZ</td>
<td><em>Jahrbuch junger Zivilrechtswissenschaftler</em> (year and page)</td>
</tr>
<tr>
<td>J.O.</td>
<td><em>Journal Officiel</em></td>
</tr>
<tr>
<td>Jura</td>
<td><em>Jura – Juristische Ausbildung</em> (year and page)</td>
</tr>
<tr>
<td>JuS</td>
<td><em>Juristische Schulung – Zeitschrift für Studium und Ausbildung</em> (year and page)</td>
</tr>
<tr>
<td>JZ</td>
<td><em>Juristen-Zeitung</em> (year and page)</td>
</tr>
<tr>
<td>KG</td>
<td>Kommanditgesellschaft (German limited partnership)</td>
</tr>
<tr>
<td>KGaA</td>
<td>Kommanditgesellschaft auf Aktien (German partnership limited by shares)</td>
</tr>
<tr>
<td>KoR</td>
<td><em>Zeitschrift für kapitalmarktorientierte Rechnungslegung</em> (year and page)</td>
</tr>
<tr>
<td>KritV</td>
<td><em>Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft</em> (year and page)</td>
</tr>
<tr>
<td>KStG</td>
<td>Körperchaftsteuergesetz (German Corporate Tax Act)</td>
</tr>
<tr>
<td>KTS</td>
<td><em>Konkurs-, Treuhand- und Schiedsgerichtswesen</em> (year and page)</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>KWG</td>
<td>Gesetz über das Kreditwesen (German Banking Act)</td>
</tr>
<tr>
<td>LL.P</td>
<td>Limited Liability Partnership</td>
</tr>
<tr>
<td>LQR</td>
<td>Law Quarterly Review (volume, year and page)</td>
</tr>
<tr>
<td>Ltd.</td>
<td>Private Limited Company</td>
</tr>
<tr>
<td>McGill L.J.</td>
<td>McGill Law Journal (volume, year and page)</td>
</tr>
<tr>
<td>MDR</td>
<td>Monatsschrift für Deutsches Recht (year and page)</td>
</tr>
<tr>
<td>MLR</td>
<td>Modern Law Review (volume, year and page)</td>
</tr>
<tr>
<td>MünchKommBGB</td>
<td>Münchener Kommentar zum Bürgerlichen Gesetzbuch (author, volume and paragraph)</td>
</tr>
<tr>
<td>n., no</td>
<td>Number, Nummer, numero</td>
</tr>
<tr>
<td>N.E.2d</td>
<td>North Eastern Reporter (Second Series) volume, page, jurisdiction [ultimate instance, if not stated otherwise] and year</td>
</tr>
<tr>
<td>n.F., N.F.</td>
<td>neue Folge (new series)</td>
</tr>
<tr>
<td>NJW</td>
<td>Neue Juristische Wochenschrift (year and page)</td>
</tr>
<tr>
<td>NotBZ</td>
<td>Zeitschrift für die notarielle Beratungs- und Beurkundungspraxis (year and page)</td>
</tr>
<tr>
<td>NWB</td>
<td>Neue Wirtschaftsbriehe (year, tray and page)</td>
</tr>
<tr>
<td>NYU L. Rev.</td>
<td>New York University Law Review (volume, year and page)</td>
</tr>
<tr>
<td>NZA</td>
<td>Neue Zeitschrift für Arbeits- und Sozialrecht – Zweiwochenschrift für die betriebliche Praxis (year and page)</td>
</tr>
<tr>
<td>NZG</td>
<td>Neue Zeitschrift für Gesellschaftsrecht (year and page)</td>
</tr>
<tr>
<td>NZI</td>
<td>Neue Zeitschrift für das Recht der Insolvenz und Sanierung (year and page)</td>
</tr>
<tr>
<td>ÖBA</td>
<td>Österreichisches Bank-Archiv – Zeitschrift für das gesamte Bank- und Sparkassen-, Börsen- und Kreditwesen (year and page)</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>ÖJZ</td>
<td>Österreichische Juristen-Zeitung (year and page)</td>
</tr>
<tr>
<td>OGH</td>
<td>Oberster Gerichtshof (Austrian Supreme Court)</td>
</tr>
<tr>
<td>OHG</td>
<td>offene Handelsgesellschaft (German general partnership)</td>
</tr>
<tr>
<td>OJ EC/EU</td>
<td>Official Journal of the European Communities/Union, series L and C (year, number and page)</td>
</tr>
<tr>
<td>OJLS</td>
<td>Oxford Journal of Legal Studies (volume, year and page)</td>
</tr>
<tr>
<td>OLG</td>
<td>Oberlandesgericht (German appeal court)</td>
</tr>
<tr>
<td>ORDO</td>
<td>Jahrbuch für Ordnung von Wirtschaft und Gesellschaft (year and page)</td>
</tr>
<tr>
<td>para.</td>
<td>paragraph</td>
</tr>
<tr>
<td>PLC</td>
<td>Public Limited Company</td>
</tr>
<tr>
<td>RabelsZ</td>
<td>Rabels Zeitschrift für ausländisches and internationales Privatrecht (volume, year and page)</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>RdA</td>
<td>Recht der Arbeit – Zeitschrift für die Wissenschaft und Praxis des gesamten Arbeitsrechts (year and page)</td>
</tr>
<tr>
<td>RdC</td>
<td>Recueil des Cours – Collected Courses of the Hague Academy of International Law (volume, year and page)</td>
</tr>
<tr>
<td>Rec. Dalloz</td>
<td>Recueil Dalloz (year and page)</td>
</tr>
<tr>
<td>RefE</td>
<td>Referentenentwurf (first draft)</td>
</tr>
<tr>
<td>Rép. Sociétés Dalloz</td>
<td>Répertoire Sociétés Dalloz</td>
</tr>
<tr>
<td>Rev.dr.int.dr.comp</td>
<td>Revue de droit international et de droit comparé (volume, year and page)</td>
</tr>
<tr>
<td>Rev.int.dr.comp.</td>
<td>Revue internationale de droit comparé (year and page)</td>
</tr>
<tr>
<td>Rev.jur.com.</td>
<td>Revue de jurisprudence commerciale (volume, year and page)</td>
</tr>
<tr>
<td>RGBl.</td>
<td>Reichsgesetzblatt (year and page)</td>
</tr>
<tr>
<td>RGZ</td>
<td>Entscheidungen des Reichsgerichts in Zivilsachen (volume and page)</td>
</tr>
<tr>
<td>RIW</td>
<td>Recht der internationalen Wirtschaft, Außenwirtschaftsdienst des Betriebsberaters (until 1974: AWD) (year and page)</td>
</tr>
<tr>
<td>RMC</td>
<td>Revue du Marché Commun et de l’union européenne (year and page)</td>
</tr>
<tr>
<td>RPPfleger</td>
<td>Der deutsche Rechtspfleger (year and page)</td>
</tr>
<tr>
<td>RTD Com.</td>
<td>Revue trimestrielle de Droit Commercial (year and page)</td>
</tr>
<tr>
<td>RTDE</td>
<td>Revue trimestrielle de Droit Européen (year and page)</td>
</tr>
<tr>
<td>S.A.</td>
<td>Société Anonyme; società per azioni</td>
</tr>
<tr>
<td>SARL, S.A.R.L.</td>
<td>Société à Responsabilité Limitée</td>
</tr>
<tr>
<td>SAS</td>
<td>Société par Actions Simplifiée</td>
</tr>
<tr>
<td>SchwAG</td>
<td>Die Schweizerische Aktiengesellschaft (year and page)</td>
</tr>
<tr>
<td>SchwZW</td>
<td>Schweizerische Zeitschrift für Wirtschaftsrecht – Revue suisse de droit des affaires – Swiss Review of Business Law, until 1989 SchwAG (year and page)</td>
</tr>
<tr>
<td>SE</td>
<td>Societas Europaea, European company</td>
</tr>
<tr>
<td>SEA</td>
<td>Securities Exchange Act 1934</td>
</tr>
<tr>
<td>SEC</td>
<td>Securities and Exchange Commission (U.S.A.)</td>
</tr>
<tr>
<td>sec.</td>
<td>section(s)</td>
</tr>
<tr>
<td>SEK / EG-Doc. SEK</td>
<td>Documents of the secretariat of the Commission (year, number and page)</td>
</tr>
<tr>
<td>sep.</td>
<td>separatum/Beilage</td>
</tr>
<tr>
<td>SFAS</td>
<td>Statements of Financial Accounting Standards</td>
</tr>
<tr>
<td>SI</td>
<td>Statutory Instrument</td>
</tr>
<tr>
<td>SME</td>
<td>Small and Medium-sized Enterprises</td>
</tr>
<tr>
<td>SPE</td>
<td>Societas Privata Europaea, European Private (Limited) Company</td>
</tr>
<tr>
<td>S.R.L.</td>
<td>società a responsabilità limitata</td>
</tr>
</tbody>
</table>

liv | Intersentia
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intersentia</td>
<td>lv</td>
</tr>
<tr>
<td>StuW</td>
<td>Steuer und Wirtschaft (year and page)</td>
</tr>
<tr>
<td>suppl.</td>
<td>supplement</td>
</tr>
<tr>
<td>UmwG</td>
<td>Umwandlungsgesetz (German Act on Transformation of Companies) of 28.10.1994, BGBl. 1994 I, 3210</td>
</tr>
<tr>
<td>U.S.</td>
<td>United States Reports – Cases Adjudged in the Supreme Court (volume, page and year)</td>
</tr>
<tr>
<td>U.S.A.</td>
<td>United States of America</td>
</tr>
<tr>
<td>US-GAAP</td>
<td>Generally Accepted Accounting Principles (US-american accounting method)</td>
</tr>
<tr>
<td>UTLJ</td>
<td>The University of Toronto Law Journal (volume, year and page)</td>
</tr>
<tr>
<td>VGR</td>
<td>Gesellschaftsrecht in der Diskussion, Jahrestagung der Gesellschaftsrechtlichen Vereinigung (VGR) (volume, year and page)</td>
</tr>
<tr>
<td>Virginia L. Rev.</td>
<td>Virginia Law Review (volume, year and page)</td>
</tr>
<tr>
<td>vol., vols.</td>
<td>volume, volumes</td>
</tr>
<tr>
<td>VuR</td>
<td>Verbraucher und Recht (year and page)</td>
</tr>
<tr>
<td>WiB</td>
<td>Wirtschaftsrechtliche Beratung, Zeitschrift für Wirtschaftsanwälte und Unternehmensjuristen (year and page)</td>
</tr>
<tr>
<td>WLR</td>
<td>Weekly Law Reports (year, part and page)</td>
</tr>
<tr>
<td>WM</td>
<td>Zeitschrift für Wirtschaft- und Bankrecht, Wertpapier-Mitteilungen, part IV (year and page)</td>
</tr>
<tr>
<td>WPg</td>
<td>Die Wirtschaftsprüfung (year and page)</td>
</tr>
<tr>
<td>WpHG</td>
<td>Gesetz über den Wertpapierhandel und zur Änderung börsenrechtlicher und Wertpapierrechtlicher Vorschriften (German Financial Services Act) of 26.7.1994, BGBl. 1994 I, 1749</td>
</tr>
<tr>
<td>WPO</td>
<td>Wirtschaftsprüferordnung (German Law Regulating the Profession of Public Accountants)</td>
</tr>
<tr>
<td>WpÜG</td>
<td>Wertpapiererwerbs- und Übernahmegesetz (German Takeover Law) of 1.1.2001, BGBl. 2001 I, 3822</td>
</tr>
</tbody>
</table>

Intersentia lv
List of Abbreviations

WSI-Mitt  WSI-Mitteilungen – Monatszeitschrift des Wirtschafts- und Sozialwissenschaftlichen Instituts des Deutschen Gewerkschaftsbundes (year and page)

Yale L.J.  Yale Law Journal (volume, year and page)

YbEL  Yearbook of European Law (year, volume and page)

ZBB  Zeitschrift für Bankrecht and Bankwirtschaft (year and page)

ZEuP  Zeitschrift für Europäisches Privatrecht (year and page)

ZEuS  Zeitschrift für Europarechtliche Studien (year and page)

ZJA  Zeitschrift für Arbeitsrecht (year and page)

ZfB  Zeitschrift für Betriebswirtschaft (year and page)

ZfbF  Schmalenbachs Zeitschrift für betriebswirtschaftliche Forschung (year and page)

ZfgG  Zeitschrift für das gesamte Genossenschaftswesen (volume, year and page)

ZfgKW  Zeitschrift für das gesamte Kreditwesen (year and page)

ZfRV  Zeitschrift für Rechtsvergleichung (volume, year and page)

ZfV  Zeitschrift für Versicherungswesen (year and page)

ZGR  Zeitschrift für Gesellschafts- and Unternehmensrecht (year and page)

ZgS/JITE  Zeitschrift für die gesamte Staatswissenschaft – Journal of Institutional and Theoretical Economics (year, volume and page)

ZHR  Zeitschrift für das gesamte Handelsrecht and Wirtschaftsrecht (Zeitschrift für das gesamte Handelsrecht and Konkursrecht) (volume, year and page)

ZInsO  Zeitschrift für das gesamte Insolvenzrecht (year and page)


ZRP  Zeitschrift für Rechtspolitik (year and page)

ZSR  Zeitschrift für Schweizerisches Recht – Revue de droit suisse – Rivista di diritto svizzero (volume, Abteilung, year and page)

ZvgIRW  Zeitschrift für vergleichende Rechtswissenschaft (volume, year and page)

ZZP  Zeitschrift für Zivilprozess (volume, year and page)