

PRIVATE LAW DEVELOPMENT IN CONTEXT

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PRIVATE LAW DEVELOPMENT
IN CONTEXT

German Private Law and Scholarship
in the 20th Century

Edited by
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Private Law Development in Context. German Private Law and Scholarship in
the 20th Century

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PREFACE

Private Law Development in Context discusses private law scholars in Germany and German-speaking countries, namely their role in the development of private law and its relationship to the international sphere, to society and to other disciplines. German law is often perceived as being focused on system building and doctrinal thinking. While this is certainly true, it is only half the truth. Comparative law – also as a source for international legislation – was equally important, as well as the idea of a robust economic ('ordo-liberal') order. Theoretical perspectives and the struggle about how to deal with other disciplines were prominent – and certainly German law was highly influential in large parts of the world, private law scholars being aware of their role in this. Perhaps most importantly in the context of this book, it seems to be rather unique to Germany that academia is (probably) the most prominent driving force for the development of private law. Therefore, this book tries to shed light on the development of private law in Germany, to a large extent also beyond Germany, and in all the dimensions named by explaining the work of those scholars with German as their mother tongue whom we judge to be the most prominent in this. We think that their writings and theories constitute a highly relevant – indeed arguably the most relevant – framework for understanding private law thinking and development emanating from German-speaking countries.

This book is based on a series of lectures held over the course of many years. Explanations have been added to render the collection more readable and rich for an international audience. The editors are highly grateful to the members of their *Lehrstühlen* (chairs) who have been so responsive to the needs of the lecture series and the production process, namely Ms Emilie Mathieu for taking on the majority of the translation and Ms Angela Huhn for organising the English edition. We would also like to thank all those who took on the main burden of responsibility during the course of the lecture series and during the initial collection and review of the manuscripts, perhaps above all Dr Florian Möslein, Alexander Jüchser and Frank Rosenkranz (now Prof. Dr Florian Möslein, Rechtsanwalt Dr Alexander Jüchser and Assistant Prof. Dr Frank Rosenkranz). Finally, we are very grateful to the Thyssen Foundation for sponsoring this book by covering some of the costs of production and the translation.

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Stefan Grundmann
Karl Riesenhuber

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LIST OF ABBREVIATIONS

AcP	<i>Archiv für die civilistische Praxis</i>
AGB	Allgemeine Geschäftsbedingungen [General Contract Terms Act]
AGG	Allgemeines Gleichbehandlungsgesetz [General Equal Treatment Act]
AktG	Aktiengesetz [German Stock Corporation Act]
ArbGG	Arbeitsgerichtsgesetz [Law on Labour Courts]
BAG	Bundesarbeitsgericht [Federal Labour Court]
BauGB	Baugesetzbuch [Construction Act]
BBergG	Bundesberggesetz [German Mining Act]
BGB	Bürgerliches Gesetzbuch [Civil Code]
BGH	Bundesgerichtshof [Federal Supreme Court]
BImSchG	Bundesimmissionsschutzgesetz [Federal Emissions Control Act]
BörsG	Börsengesetz [Stock Exchange Act]
BVerfG	Bundesverfassungsgericht [Federal Constitutional Court]
CDU	Christian Democratic Union
CEE	Central and Eastern European
CEO	Chief Executive Officer
CISG	United Nations Convention on Contracts for the International Sale of Goods
CMLR	Common Market Law Review
DCFR	Draft Common Frame of Reference
DFB	Deutscher Fußball-Bund [German Football Federation]
DFG	Deutsche Forschungsgemeinschaft [German Research Society]
DG	Directorate General
DJT	Deutscher Juristentag
DM	<i>Deutschmark</i>
EAG	Einheitliches Gesetz über den Abschluß von internationalen Kaufverträgen über bewegliche Sachen
EC	European Community
ECJ	European Court of Justice
EKG	Einheitliches Kaufgesetz

FamRZ	<i>Zeitschrift für das gesamte Familienrecht</i>
GBO	Grundbuchordnung [German Land Register Code]
GewO	Gewerbeordnung [German Industrial Code]
GmbHG	Gesetz betreffend die Gesellschaften mit beschränkter Haftung [Limited Liability Companies Act]
GG	Grundgesetz [Basic Law]
GWB	Gesetz gegen Wettbewerbsbeschränkungen [Act against Restraints of Competition]
HGB	Handelsgesetzbuch [Commercial Code]
InsO	Insolvenzordnung [German Insolvency Statute]
JuS	<i>Juristische Schulung</i>
JZ	<i>JuristenZeitung</i>
KAGG	Kapitalanlagegesellschaftsgesetz [German Investment Companies Act]
KG	Kommanditgesellschaft [Limited partnership]
KonTraG	Gesetz zur Kontrolle und Transparenz im Unternehmensbereich [Control and Transparency in Business Act]
KritV	Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft
LLP	Limited Liability Partnership
LOT	Legal Origins Theory
MitbestG	Mitbestimmungsgesetz [Co-determination Act]
NJW	<i>Neue Juristische Wochenschrift</i>
NS	National Socialist
OHG	Offene Handelsgesellschaft [general partnership]
ÖJT	Österreichischer Juristentag [Austrian Lawyers' Conference]
OLG	Oberlandesgericht [Higher Regional Court]
PLC	Public Limited Company
SE	Societas Europaea
SEE	Southeast European
SPD	Sozialdemokratische Partei Deutschlands [Social Democratic Party]
TVG	Tarifvertragsgesetz [Law on Collective Bargaining]
UGB	Unternehmensgesetzbuch [Austrian Commercial Code]
UMAG	Gesetz zur Unternehmensintegrität und Modernisierung des Anfechtungsrechts [Act on Corporate Integrity and Modernisation of the Right of Rescission]
UNCTAD	United Nations Conference on Trade and Development
UWG	Gesetz gegen den unlauteren Wettbewerb [Unfair Competition Act]
WM	<i>Zeitschrift für Wirtschafts- und Bankrecht</i>

WpHG	Wertpapierhandelsgesetz [German Securities Trading Act]
ZfA	<i>Zeitschrift für Arbeitsrecht</i>
ZGR	<i>Zeitschrift für Unternehmens- und Gesellschaftsrecht</i>
ZHR	<i>Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht</i>
ZIP	<i>Zeitschrift für Wirtschaftsrecht</i>
ZVS	Zentralstelle für die Vergabe von Studienplätzen [Central office for the allocation of courses of study]
ZZP	<i>Zeitschrift für Zivilprozess</i>

