

Corporations between International Private and Criminal Law

The most recent issue of the German „Zeitschrift für Unternehmens- und Gesellschaftsrecht“ (ZGR, Journal of Enterprise and Corporate Law) has just been released. The volume is based on presentations given at a conference in Königstein/Taunus in January 2016. It contains several articles dealing with the relationship between private and criminal law and its impact on corporate governance. In particular, two articles approach the subject from a conflict-of-laws perspective. Here are the English abstracts:

Marc-Philippe Weller, Wissenszurechnung in internationalen Unternehmensstrafverfahren, ZGR 2016, pp. 384-413

The article deals with the imputation of knowledge in legal entities from a private and a criminal law perspective. Several foreign criminal proceedings against domestic companies induce this question. Firstly, the article demonstrates the different ways to determine the applicable law to this imputation. Secondly, it discusses measures to limit the imputation via knowledge governance.

Jan von Hein, USA: Punitive Damages für unternehmerische Menschenrechtsverletzungen, ZGR 2016, pp. 414-436

While German Law traditionally neither accepts universal civil jurisdiction for violations of customary international law nor a penal responsibility of corporations, foreign companies have in the past been frequently sued in the United States on the basis of the Alien Tort Statute of 1789 for the payment of punitive damages for alleged human rights violations. However, the U.S. Supreme Court has severely curtailed the reach of this jurisdiction in its groundbreaking *Kiobel* judgment of 2013. The present article analyzes, in light of the subsequent jurisprudence, the impact of this decision on German-American legal relations and the defenses available to German corporations.