

Out now: ZEuP 2019, Issue 1



The latest issue of the Zeitschrift für Europäisches Privatrecht has just been released. It contains the following articles (plus an interesting editorial by Heike Schweizer on the platforms as “private regulators”):

Francisco Garcimartín: *The EU Regime on Securitisation: coordination between the regulatory framework and the conflict of law rules*

This article analyses the relationship between the EU Securitisation Regulation and the Commissions’s Proposal on the law applicable to the third-party effects of assignment of claims. The former is an instrument of regulatory law, the application of which requires certain private-law conditions; in particular with regard to proprietary and insolvency law. In a cross-border context, the future Regulation on assignment of claims will fill a relevant gap in EU law and therefore together the Securitisation Regulation may contribute to restarting a sound securitisation market in the EU.

Leonhard Hübner: *Die Drittwirkungen der Abtretung im IPR*

With regard to the third-party effects of the assignment, there is a high degree of legal uncertainty in European conflict of laws. After a long struggle, the EU Commission therefore published a corresponding draft regulation in March 2018. The article examines whether the draft regulation establishes the necessary legal certainty and thus contributes to the further development of European conflict of laws.

Jan Böhle: *Die Abwahl zwingenden Rechts vor staatlichen Gerichten in Inlandsfällen*

According to Art. EWG_VO_593_2008 Artikel 3(3) of the Rome I Regulation parties cannot circumvent the application of mandatory rules by means of a choice of law in so-called domestic situations. However, it remains largely unclear whether the connection between a domestic contract and an international contract as well as the use of international standard

documentation by the parties are sufficient to establish an international element to the situation. This article will answer these questions in the affirmative.

Christian Kohler, Sibylle Seyr and Jean-Christophe Puffer-Mariette: *Unionsrecht und Privatrecht: Zur Rechtsprechung des EuGH im Jahr 2017*

A number of decisions of the Court of Justice and the General Court of the European Union given in 2017 are again of particular interest for private law. Two judgments of the Grand Chamber of the ECJ address the issue whether the prohibition to wear an Islamic headscarf at the workplace amounts to a discrimination based on religion or belief. Further rulings concern discriminations based on grounds of age or sex. In a seminal judgment on the freedom of establishment the ECJ completed its case law on the cross-border transfer of the registered office of a company. Also included are judgments of the ECJ in the field of consumer contracts, product liability, harmonised labour law, the rights of passengers in the event of cancellation or delay of flights, and the protection of personal data. As in previous years, cases on the law of trademarks and on intellectual property provide another focus.

Christian Twigg-Flesner: *Consolidation rather than Codification - or just Complication? - The UK's Consumer Rights Act 2015*

The Consumer Rights Act 2015 was adopted to simplify and consolidate legislation on consumer contracts. The Act only consolidates rules on conformity and associated remedies for goods, as well new rules on services and digital content, and the regulation of unfair terms. Beyond this, the Act contains provisions on consumer matters such as enforcement powers, collective actions under Competition Law, and letting agents and secondary ticketing platforms. Overall, the Act lacks a clear focus.