

Fleischer on Optional Instruments in European Private Law

Holger Fleischer, Director at the Max Planck Institute for Comparative and International Private Law in Hamburg, has posted a (German) article on optional instruments in European Private Law on SSRN. It is forthcoming in *Rabels Zeitschrift für ausländisches und internationales Privatrecht* and can be downloaded [here](#). The abstract reads as follows:

“This paper explores the ‘optional instrument’ as a regulatory tool in European private law. The term ‘optional instrument’ or ‘28th Regime’ refers to supranational corporate forms, legal titles or legal instruments which provide an alternative model for doing business throughout the European Union while leaving national laws untouched. After distinguishing different modes of optional law, the paper provides an overview of optional instruments that already exist or are proposed in European company law, intellectual property law, insurance contract law and sales law. It then identifies common features and problems of the 28th Regime, from its appropriate legal basis and the need for an optional instrument to its scope of application, its interface with national law and its relationship to private international law. Finally, the paper addresses the under-researched question of vertical regulatory competition triggered by optional instruments in European private law.”