# Out now: Zeitschrift für vergleichende Rechtswissenschaft (ZVglRWiss) 121 (2022) No. 1

The most recent issue of the German Journal of Comparative Law (Zeitschrift für Vergleichende Rechtswissenschaft) features the following articles on private international and comparative law:

*Werner F. Ebke:* **Prüfungs- und Beratungsnetzwerke und die Unabhängigkeit des Abschlussprüfers: Versuch einer europarechtskonformen Konturierung des § 319b Abs. 1 Satz 3 HGB**

Independence is the cornerstone of the law requiring corporations to have their annual financial statements and consolidated statements audited by independent accountants. To ensure confidence in the audit function, EU Directive 2006/43/EC and EU Directive 2014/56/EU emphasize that statutory auditors and audit firms should be independent when carrying out statutory audits. Accordingly, Member States are required to ensure that an auditor or an audit firm shall not carry out a statutory audit if there is any direct or indirect financial, business, employment or other relationship – including the provision of additional non-audit services – between the statutory auditor, audit firm or network and the audited entity from which an objective, reasonable and informed third party would conclude that the statutory auditor's or audit firm's independence is compromised. Building on these two Directives, Regulation (EU) 537/2014 states that a statutory auditor or an audit firm carrying out the statutory audit of a public-interest entity (PIE), or any member of the network to which the statutory auditor or the audit firm belongs, shall not directly or indirectly provide to the audited entity, to its parent company or to its controlled companies within the EU any of the prohibited non-audit services listed in its Article 5. The reference to a "network" takes account of the fact that, since the 1980ies, audit firms are increasingly cooperating with each other, both nationally and internationally, to provide audit and consulting services pursuant to (worldwide) uniform standards close to their clients with highly qualified personell at reasonable costs (economies of scale; regional or

global presence). Article 2 No. 7 of EU Directive 2006/43/EC contains a broad defintion of the term “network” which is also applicable within the ambit of Regulation (EU) 537/2014. The German legislature has implemented the definition in § 319b of the Commercial Code (HGB), although not verbatim. After a short desciption of the rules requiring the auditor’s independence (II.), we shall illuminate the legal environment within which § 319b operates (III.). Thereafter, the present essay analyses the term “network”, using the classic means of interpretation of statutes and secondary European law in light of the jurisprudence of the ECJ (IV.). Against this backdrop, the application of § 319b will be examined (V.). A brief summary of the findings will conclude the essay (VI.).

*Francesco A. Schurr/Angelika Layr:* **Emission und Übertragung von DLT-Wertrechten im internationalen Privatrecht Liechtensteins und der Schweiz**

The legal scholarly discussion of the last decade has brought to the establishment of various models in the fields of contract law, property law, company law, securities law etc. Thus, various legal problems in these fields of law could be solved. On the contrary, many legal questions regarding the tension between DLT and the conflict of law rules still need to be answered. The present paper intends to contribute to finding answers to these questions and analyses the progressive legislation of Liechtenstein and Switzerland in the fields of Blockchain. In most scenarios analysed in the paper there is a need to rely on a choice of law clause in order to achieve the desired legal certainty.

*Marco Lettenbichler:* **Die Generalversammlung der liechtensteinischen Aktiengesellschaft und die Übertragung von deren Befugnissen auf andere Organe**

This article deals with the question whether powers of a general meeting of a Liechtenstein stock corporation are transferable to other organs. According to Art. 338 (3) PGR, the flexible Liechtenstein Persons and Companies Act allows for transferring all tasks assigned by law and by the articles of association to another body. This norm is the subject of this article. It is to be examined whether a full

transfer of tasks is compatible with the Liechtenstein legal system. After a legal comparison with Austrian, German and Swiss stock corporation law, it is concluded that there is an inalienable and non-transferable core area of tasks of the general meeting.

*WANG Qiang:* **Optimiert oder nur halbherzig geändert? – Die Erbenhaftung für Nachlassverbindlichkeiten in Chinas neuem Erbrecht im rechtswissenschaftlichen und -terminologischen Vergleich zum deutschen Erbrecht**

On May 28th 2020, the People's Republic of China witnessed the promulgation of its Civil Code after having it put on high political and legislative agenda in the past years. Since its founding in 1949, the PRC have undertaken numerous endeavors to codify its civil law, which finally culminated in this codification. A landmark law of the PRC, the new Civil Code embodies furthermore a significant milestone in China's legal history, especially of civil law legislation, which, in contrast to its long and turbulent history, had not started until the late Qing-Dynasty (1911). With the Civil Code's implementation on January 1st, 2021, the leges speciales, which had been drawn upon as essential basis for the seven books of the Civil Code, were replaced by the latter. Expecting comprehensive law renewals fulfilled in the course of the codification, legal scholars in the PRC, especially those of the inheritance law, set great hope on the newly codified inheritance law as an initiative to thoroughly update and improve the old one, which had been in force as lex specialis ever since 1985 and needed urgent reform in numerous aspects. However, the long-expected substantial reform of the outdated inheritance law has failed to materialize. First and foremost, the regulations on the heirs' liabilities for obligations of the estate, which are comprehensive in content and therefore complicated, but at the same time highly important in legal practice, still remain extremely cursory. The article aims at providing an in-depth analysis of the afore-mentioned regulations stipulated in the newly codified inheritance law in comparing them with those of the German inheritance law. Shedding light nevertheless on the reform achievement of the new inheritance law in certain aspects, this article will probe into the roots of the relevant problems while exploring potential solutions mainly from the legal-technical, legal-systematic and legal-terminological perspective.