

RabelsZ 89 (2025): Issue 3

The latest issue of RabelsZ has just been released. It contains the contributions to the symposium in honor of Jürgen Basedow that was held in Hamburg in November 2024. The table of contents is available [here](#). All content is Open Access: CC BY 4.0 and more articles are available Online First.



Eva-Maria Kieninger, Konrad Duden and Ralf Michaels, Preface to the Symposium Issue, pp. 409–410, <https://doi.org/10.1628/rabelsZ-2025-0046>

Hannah L. Buxbaum, The New Unilateralism in EU Cross-Border Regulation: Objectives, Methods, Institution, oo. 411–431, <https://doi.org/10.1628/rabelsZ-2025-0043>

For years, Europe was a site of resistance to regulatory unilateralism, particularly as practiced by the United States. Today, though, there are signs of a robust unilateralism at work in EU regulatory practices. To some extent it simply mirrors practices adopted in the United States and elsewhere: Like other lawmakers, the EU has begun to act unilaterally where necessary to achieve effective regulation of its own markets and to protect local interests. In other respects, though, the new unilateralism in the EU presents quite differently. First, the EU increasingly uses its own legislation not to advance purely local regulatory interests, but rather to achieve international or global

goals – classically a more multilateral objective. Second, under EU law individual regulations in particular substantive areas are embedded in a larger framework of norms and values that claim universal appeal. In both of these regards, the EU version of unilateralism appears more benign than purely »self-interested« unilateralism. It nevertheless raises important questions about the way that local laws and institutions are used to project regulatory power in the international arena. The goal of this article is to explore these questions. It begins by describing the characteristics of this new unilateralism, in terms of both its doctrinal foundations and its regulatory objectives. It then focuses on one particular mechanism: the adequacy regime established under EU data protection law.

Dagmar Coester-Waltjen, Einheitsrecht – prinzipiell oder sektoral? [Uniform Law – a Principle- or Sector-based Approach?], pp. 432–450, <https://doi.org/10.1628/rabelsZ-2025-0040>

The purpose of this article is to shed some light on the possible future of uniform law. Notwithstanding the possible hinderances and difficulties faced by unification activities, especially a possible lack of interest in such activities, the article considers the question of which actors are and will be involved in legal unification and what types of uniform law can be expected. The growing involvement of private actors (the so-called commercial approach) and the concentration on different kinds of soft law promise an increasing degree of sectoral projects featuring a functional approach. However, it is essential to continue work on general principles that have applicability in specific areas of law; such principles are needed as interpretative aids and serve an important gap-filling function. Jürgen Basedow recommended keeping general principles in mind already at the stage of formulating a sectoral project. Thus, it can be expected that both the concept of principles and a sectoral approach will play an important role also in the future.

Christian Kohler, Zur Außenprivatrechtspolitik der Europäischen Union, [On the External Policy of the European Union in the Field of Private Law], pp 451–482, <https://doi.org/10.1628/rabelsZ-2025-0041>

The policy of the European Union in the field of private law is primarily aimed at shaping the internal market, but it also affects relations with non-EU states in a variety of ways as regards both regulatory private law and the conflict of laws. The EU's underlying »external private law policy« is pursued in two ways. First, legal instruments include unilateral scope rules which bring persons or events in third states within the scope of the measure and which should promote the regulatory objectives at issue. Second, agreements on private law matters are concluded by or on behalf of the EU with third states. However, institutional weaknesses and the Union's notorious lack of competence make it difficult to develop a coherent external private law policy. In the field of conflict of laws, the conclusion of multilateral agreements makes the unilateral extension of EU rules to situations involving third states not redundant. There is no discernible political will to extend the Union's powers in the field of private law and thereby change the conditions under which the EU's external private law policy is currently formed.

Matteo Fornasier, Modelle europäischer Privatrechtsharmonisierung. Die prozedurale Harmonisierung als neue Form der Rechtsvereinheitlichung in der EU? [Harmonization of Private Law in Europe. Procedural Harmonization as a New Path Towards the Approximation of National Laws in the EU?], pp. 483-505, <https://doi.org/10.1628/rabelsZ-2025-0042>

The article offers an overview on the variety of regulatory approaches towards the harmonization of private law in Europe, covering both negative and positive harmonization, including full, minimum, and optional harmonization. Particular attention is devoted to what appears to be a new model of harmonization, which is referred to in this article as procedural harmonization. Procedural harmonization occurs where the EU legislature or, in some cases, the EU Court of Justice confines itself to setting common European procedural standards for the protection of certain individual rights, without harmonizing the substance of those rights. The article draws on a number of examples from EU employment law, which is an important element of the system of EU private law, though it is often marginalized in European private law discourse.

Herbert Kronke, Weil Wissenschaft Wissen schafft: Zu Jürgen Basedows »Uniform Law« [Because Scholarship Generates Knowledge: On Jürgen Basedow's »Uniform Law«], pp 506-521, <https://doi.org/10.1628/rabelsZ-2025-0045>

The article highlights the innovative nature of Basedow's third major monograph relative to other »modern classics« on uniform law, noting in particular its combination of (almost) encyclopaedic coverage, systematic structure, and critical analysis, incorporating well-known central topics along with commentary on numerous uniform legal instruments. In addition, there are new and surprising elements awaiting comparative commercial law scholars, such as the topic of »negative harmonization«. The author of the article also discusses hypotheses, arguments, and conclusions in regards to perpetual themes of transnational law, such as the choice between a classic international treaty or the now frequent alternative of a soft law instrument, the dynamic of mutual influence between uniform law and non-uniform national law, and the relationship of uniform law and private international law. Finally, the article looks at institutional, cultural, and economic framework conditions and – politically determined – obstacles to the development of modern uniform law, as felt by the institutions, as well as experts involved in their work.

The issue also contains several reviews of literature in the fields of comparative private and private international law and on related topics (pp. 522-610).