

PARTY AUTONOMY:
CONSTITUTIONAL
AND INTERNATIONAL
LAW LIMITS IN
COMPARATIVE
PERSPECTIVE

GEORGE A. BERMAN
Editor

Party Autonomy Constitutional And International Law Limits In Comparative Perspective

Jan-Jaap Kuipers



Party Autonomy Constitutional And International Law Limits In Comparative Perspective:

Party autonomy : constitutional and international law limits in comparative perspective George A [VNV] Berman,2004 **Party Autonomy in Private International Law** Alex Mills,2018-08-16 This book provides an unprecedented analysis and appraisal of party autonomy in private international law the power of private parties to enter into agreements as to the forum in which their disputes will be resolved or the law which governs their legal relationships It includes a detailed exploration of the historical origins of party autonomy as well as its various theoretical justifications and an in depth comparative study of the rules governing party autonomy in the European Union the United States common law systems and in international codifications It examines both choice of forum and choice of law including arbitration agreements and choice of non state law and both contractual and non contractual legal relations This analysis demonstrates that while an apparent consensus around the core principle of party autonomy has emerged its coherence as a doctrine is open to question as there remains significant variation in practice across its various facets and between legal systems

Contents of Commercial Contracts Paul S Davies,Magda Raczynska,2020-07-23 Freedom of contract is a great strength of English law indeed it is a key reason why English law is often the law of choice But the terms of commercial contracts often restrict freedom of action This book considers such terms Leading commentators take stock of recent developments such as increased reliance on good faith discretion and the rise of smart contracts Insodoing they make original contributions to ongoing debates concerning the limits to parties freedom of contract This important subject will interest drafters of commercial contracts keen to ensure that contracts are clear and enforceable litigators disputing the meaning scope and validity of terms and academics interested in the purpose and nature of the exercises involved EU Law and Private International Law Jan-Jaap Kuipers,2011-11-25 European Union Law and Private International Law both attempt to resolve a conflict of laws There is however a certain tension between the two disciplines The present book proposes suggestions to enhance their mutual understanding *Modern European and Chinese Contract Law* Junwei Fu,2011-01-01 This comparative study of European and Chinese contract law opens a clear and practical way to identify and understand the differences between the two legal regimes The author offers a detailed doctrinal comparison of the two systems of contract focusing on the following fundamental elements the importance of socio economic valuation in Chinese contract law the role of judicial interpretation pre contractual liability penalties for bad faith disclosure versus concealment validity mistake fraud threats unfair bargaining power adaptation and termination effect of registration and approval rules mandatory rules good faith and fair dealing the public interest and direct application of constitutional law to contracts The book s special power lies in its extraordinarily thorough comparison of doctrines underlying specific provisions of such instruments as the Contract Law of the People s Republic of China CLC the General Principles of the Civil Law of the People s Republic of China GPCL the Principles of European Contract Law PECL and the Draft Common Frame of Reference DCFR as

well as analysis of judicial cases **Contemporary Issues in International Arbitration and Mediation** Arthur W. Rovine, 2011-08-11 The 2010 volume of Contemporary Issues in International Arbitration and Mediation The Fordham Papers is a collection of important works in the field written by the speakers at the 2010 Fordham Law School Conference on International Arbitration and Mediation Applying Municipal Law in International Disputes Paul B. Stephan, 2024-03-04 The view that international law functions independently of municipal law hermetically does not reflect contemporary international practice Instead international law in the modern era engages intensively and extensively in projects that occupy areas traditionally governed by municipal law such as business regulation as well as the rights and duties of persons The resulting overlap in legal dominions requires a new conceptualization of the relationship between international and municipal law This book explores the mechanisms employed to allocate authority to international and municipal law in international disputes Taking a broader view this course explores the work of international bodies domestic courts and informal dispute resolution including diplomacy and the use of coercive measures It identifies the mechanisms used to manage the overlapping dominions of international and municipal law as pooling referral and nesting In the final chapter the book explores how different opportunities and ambitions for international law can affect the use of these mechanisms in particular international disputes *Party Autonomy Constitutional and International Limits in Comparative Perspective* John Trone, Philippe Vincent, Vera Jacob de Fradera, Frederique Sabourin, Michel Grimaldi, Georg Nolte, Laszlo Bodnar, Mariko Kawano, 2005-02 **International Litigation Strategies and Practice** Barton Legum, 2005 Focusing on the strategic and practical aspects of handling a transnational case this resource first discusses the essentials e g finding the right lawyer for the job overseas and communicating with foreign clients and lawyers It then addresses the strategic decisions and practice tools necessary to successfully initiate defend and conclude a transnational case **Comparative Law** Mathias Siems, 2018-04-12 Comparative Law offers a thorough grounding in the subject for students and scholars of comparative law alike critically debating both traditional and modern approaches to the subject and using examples from a range of legal systems gives the reader a truly global perspective Covering essential academic debates and comparative law methodology its contextualised approach draws on examples from politics economics and development studies to provide an original contribution to topics of comparative law This new edition is fully revised and updated throughout to reflect contemporary research contains more examples from many areas of law and there is also an increased discussion of the relevance of regional international transnational and global laws for comparative law Suitable for students taking courses in comparative law and related fields this book offers a fresh contextualised and cosmopolitan perspective on the subject **The Constitutional Dimension of Contract Law** Luca Siliquini-Cinelli, Andrew Hutchison, 2017-04-06 One of the hallmarks of the present era is the discourse surrounding Human Rights and the need for the law to recognise them Various national and supranational human rights instruments have been developed and implemented in order to transition society away from

atrocities and callousness toward a more just and inclusive future. In some countries this is done by means of an overarching constitution while in others international conventions or ordinary legislation hold sway. Contract law plays a pivotal role in this context. According to many this is done through the much debated civilising mission of the contract, a notion which itself constitutes the canon of the Western liberal principle of civilised economy. The movement away from the belief in the absolute freedom of contract which reached its zenith in the nineteenth century to the principles of fairness and justice that underpin contract law today is often deemed to be a testament to this civilising influence. Delving into the interplay between human rights policies, constitutional law and contract law from both theoretical and practical perspectives, this first volume of a two book collection offers a totally new reappraisal of the subject by gathering a collection of essays written by contract law scholars from Europe, South Africa, Canada and Australia. Instead of providing the reader with a sterile compilation of positivistic norms and policies on the impact of fundamental rights and constitutional law issues on contract law's development, the authors build on their personal experience to analyse specific topics related to contracting that include a constitutional dimension. The book fills an important void in comparative law scholarship and in so doing represents the starting point for further debate on the subject.

Party Autonomy and the Role of Information in the Internal Market Stefan Grundmann, Wolfgang Kerber, Stephen Weatherill, 2001. Examination of Party Autonomy and its limits has always raised fundamental questions in national contract and private law. The concentration on information solutions which enhance and leave more space to party autonomy is a fundamentally new approach to this core issue and is typical of Community legislation. The complexity of the question made it advisable to have the different aspects treated and discussed by specialists in different areas: by legal scholars and economists by EC law and by contract law specialists by scholars from different jurisdictions with different regulatory approaches and backgrounds. The four parts deal with 1 the economic and constitutional foundations of the question with 2 the framework to be found in EC treaty law with 3 the fundamental and more general aspects relating to substantive EC contract law legislation and with 4 the most important individual legal measures. The book covers both general contract law with consumer contracts and labour contract law.

European Legal Book Index, 2003 **Current Publications in Legal and Related Fields**, 2006 **Rethinking Judicial Jurisdiction in Private International Law** Milana Karayanidi, 2020-02-20. This book explores the theory and practice of judicial jurisdiction within the field of private international law. It offers a revised look at values justifying the power of courts to hear and decide cross border disputes and demonstrates that a re-conceptualisation of jurisdiction is needed. Rather than deriving from territorial power of states, jurisdiction in civil and commercial cross border matters ought to be driven by party autonomy. This autonomy can be limited by certain considerations of equality and critical state sovereign interests. The book applies this normative view to the existing rules of jurisdiction in the European Union and the Russian Federation. These regimes are chosen due to their unique positions towards values in private international law and contrasting societal norms that generate

and accommodate these values Notwithstanding disparate cultural and political ideas these regimes reveal a surprising level of consistency when it comes to enforcement of party autonomy There is nevertheless room for improvement The book demonstrates to scholars policy makers and lawmakers that jurisdiction should be re centred around the interests of private actors and proposes ways to improve the current rules Party Autonomy George A. Bermann,2005 Foreign Policy in Comparative Perspective Ryan K. Beasley,Juliet Kaarbo,Jeffrey S. Lantis,Michael T. Snarr,2012-04-25 Widely regarded as the most comprehensive comparative foreign policy text Foreign Policy in Comparative Perspective has been completely updated in this much anticipated second edition Exploring the foreign policies of thirteen nations both major and emerging players and representing all regions of the world chapter authors link the study of international relations to domestic politics while treating each nation according to individual histories and contemporary dilemmas The book s accessible theoretical framework is designed to enable comparative analysis helping students discern patterns to understand why a state acts as it does in foreign affairs **Law, Economics and Evolutionary Theory** Peer Zumbansen,Graif-Peter Calliess,2011-01-01 Evolutionary theory belongs to the rare species of theories that are simultaneously fundamental and over arching implicating as it does numerous life contexts as well as an array of scholarly disciplines Armed with a profound grasp of evolutionary theory and its implications to social research Professors Zumbansen and Calliess have mobilized an appropriately diverse and truly stellar group of academics to investigate how this theory may provide new insights about law economics and their inter relations Cast against an especially broad intellectual backdrop set by the editors this volume is sure to become a standard reference in literature Amir N Licht Radzyner School of Law Israel Zumbansen and Calliess have done a wonderful job in assembling papers from the leading scholars in the field who draw on evolutionary approaches for explaining developments in both economics and the law Anybody interested in issues of institutional change will be inspired by the wealth of ideas and the diversity of perspectives Stefan Voigt University of Hamburg Germany Law and economics has arguably become one of the most influential theories in contemporary legal theory and adjudication The essays in this volume authored by both legal scholars and economists constitute lively and critical engagements between law and economics and new institutional economics from the perspectives of legal and evolutionary theory The result is a fresh look at core concepts in law and economics such as institutions institutional change and market failure that offer new perspectives on the relationship between economic and legal governance The increasingly transnational dimension of regulatory governance presents lawyers economists and social scientists with an unprecedented number of complex analytical and conceptual questions The contributions to this volume engage with legal theory new institutional economics economic sociology and evolutionary economics in an interdisciplinary assessment of the capacities and limits of the state markets and institutions Drawing as well upon legal sociology and the philosophy of law the authors expand and transform the known terrain of law and economics by applying evolutionary theory to both law and economics from a domestic and transnational perspective Legal

scholars evolutionary and regulatory theorists economists economic sociologists economic historians and political scientists will find this cutting edge volume both challenging and engaging **More Constitutional Dimensions of Contract Law**

Luca Siliquini-Cinelli, Andrew Hutchison, 2019-06-24 This second volume on the constitutional dimension of contract law explores this increasingly relevant subject in jurisdictions that are usually overlooked by mainstream scholarship in the English speaking world With chapters on Finland and other Nordic Countries from a comparative perspective Spain Japan Somalia Nigeria Brazil and Peru the contributions presented here offer much needed context informed insights on whether and if so why how and to what extent the development of contract law is being influenced by constitutional values and fundamental rights issues or vice versa The book represents a valuable addition to comparative law literature on the interplay between public i e constitutional and private i e contract law by revealing the inner dynamics through which these two branches interact and at times inform each other whilst also enhancing our understanding of the law s nature function and transformative potential at the macro meso and micro levels *Building the Constitution* James Fowkes, 2016-12-15 This revisionary perspective on South Africa s celebrated Constitutional Court draws on historical and empirical sources alongside conventional legal analysis to show how support from the African National Congress ANC government and other political actors has underpinned the Court s landmark cases which are often applauded too narrowly as merely judicial achievements Standard accounts see the Court as overseer of a negotiated constitutional compromise and as the looked to guardian of that constitution against the rising threat of the ANC However in reality South African successes have been built on broader and more admirable constitutional politics to a degree no previous account has described or acknowledged The Court has responded to this context with a substantially consistent but widely misunderstood pattern of deference and intervention Although a work in progress this institutional self understanding represents a powerful effort by an emerging court as one constitutionally serious actor among others to build a constitution

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