

# European Comparative Company Law

Comparative Company Law Comparative Company Law European Comparative Company Law Comparative Company Law Comparative Company Law Comparative Company Law Comparative Company Law Comparative Corporate Governance The Anatomy of Corporate Law: A Comparative and Functional Approach Routledge Handbook of Corporate Law European Comparative Company Law Comparative Corporate Law Comparative Corporate Governance : A Chinese Perspective Approaching Comparative Company Law The Anatomy of Corporate Law Comparative Corporate Governance International and Comparative Corporate Law Journal The Comparative Law Yearbook of International Business The Anatomy of Corporate Law: A Comparative and Functional Approach Andreas Cahn O. Nwafor Mads Andenas Carsten Gerner-Beuerle Klaus J. Hopt Andreas Cahn Mathias Siems Mathias M Siems Klaus J. Hopt Reinier Kraakman Roman Tomasic Director Center of European Law Mads Andenas, Ma Dphil PhD Marco Ventoruzzo Yuwa Wei David C. Donald Reinier H. Kraakman Afra Afsharipour Susan Woodley Reinier Kraakman Comparative Company Law Comparative Company Law European Comparative Company Law Comparative Company Law Comparative Company Law Comparative Company Law Comparative Company Law Comparative Company Law Comparative Corporate Governance The Anatomy of Corporate Law: A Comparative and Functional Approach Routledge Handbook of Corporate Law European Comparative Company Law Comparative Corporate Law Comparative Corporate Governance : A Chinese Perspective Approaching Comparative Company Law The Anatomy of Corporate Law

Comparative Corporate Governance International and Comparative Corporate Law Journal The Comparative Law Yearbook of International Business The Anatomy of Corporate Law: A Comparative and Functional Approach *Andreas Cahn O. Nwafor Mads Andenas Carsten Gerner-Beuerle Klaus J. Hopt Andreas Cahn Mathias Siems Mathias M Siems Klaus J. Hopt Reinier Kraakman Roman Tomasic Director Center of European Law Mads Andenas, Ma Dphil PhD Marco Ventoruzzo Yuwa Wei David C. Donald Reinier H. Kraakman Afra Afsharipour Susan Woodley Reinier Kraakman*

presents in depth comparative analyses of german uk and us company laws illustrated by leading cases with german cases in english translation

topics discussed in this book are deliberately comparative and show the different levels of the ground rules for the regulation of corporate operations in the different jurisdictions the united kingdom nigeria and south africa are primarily chosen simply on the common law background upon which the statutory provisions in those countries are founded there are also references to canada australia and india on case by case basis to illustrate the differences in the application of the relevant legal principles and statutory interpretations the insights gained should facilitate statutory amendments and effective adjustment in the operations of the regulatory agencies and business organizations the book is written as an invaluable study material for students at the tertiary level illuminating the concepts from divergent perspectives avails the reader a broad range of explanations for a better understanding of the subject legal practitioners and the judiciary should also find in this work a good source of legal information on company law especially whenever the need arises to seek persuasive guidance from the opinions of courts and writers on similar developments in cognate jurisdictions to give meaning to those difficult and uncharted courses in the discharge of their daily responsibilities of interpreting and applying the law as judicial officers the book should be a handy material for those running the affairs of a company in understanding the rules of their engagement

company law is undergoing fundamental change in europe all european countries have undertaken extensive reform of their company legislation domestic reform has traditionally been driven by corporate failures or scandals initiatives to make corporate governance more effective are a feature of recent european law reform as are measures to simplify and ease burdens on smaller and medium sized businesses smes an increasing eu harmonisation is taking place through the company law directives and the free movement of companies is also facilitated by the case law of the european court of justice on the directives and the right to free movement and establishment in the ec treaty new european corporate forms such as the european economic interest grouping eeig and the european company se have added new dimensions at a time of rapid development of eu and national company laws this book will aid the understanding of an emerging discipline

comparative company law provides a systematic and coherent exposition of company law across jurisdictions augmented by extracts taken from key judgments legislation and scholarly works it provides an overview of the legal framework of company law in the us the uk germany and france as well as the legislative measures adopted by the eu and the relevant case law of the court of justice the comparative analysis of legal frameworks is firmly grounded in legal history and legal and economic theory and bolstered by numerous extracts including extracts in translation that offer the reader an invaluable insight into how the law operates in context the book is an essential guide to how company law cuts across borders and how different jurisdictions shape the corporate lifespan from its formation by way of incorporation to its demise corporate insolvency and eventual dissolution in addition it offers an introduction to the nature of the corporation the framework of eu company law incorporation and corporate representation agency problems in the firm rights of stakeholders and shareholders neutrality and defensive measures in corporate control transactions legal capital piercing the corporate veil and corporate insolvency and restructuring law

the developments of company law in countries belonging to five legal families illustrate the principle agent conflicts that company law faces and the range of solutions it offers to cope with them comparative company law is about learning from each other s experience in a competitive way and solving together the cross border problems arising for and from companies that are facing global competition comparative company law today is conceived and created equally by legislators lawyers academics and courts examples include the influence of german french and u s law on company law codifications in japan and other countries the legal practice in regard to cross border transactions the worldwide growing presence of academic comparative research and last but not least the decision making of the european court of justice the driving forces of comparative company law can be traced back to the spread of the 1930s u s securities regulation into european union member states eastern european states and also china the harmonization efforts of the european community since the late 1950s and most recently the international rise of the corporate governance and code movements in the 1990s that had some famous origins in the united kingdom this leads to modern challenges such as the pros and cons of self regulation in company law and beyond from a broader perspective there is a need for the adjustment of company and capital market law in all the legal families considered in this respect comparative company law is a highly promising source for exploring the key issues including convergence and divergence in company and capital market law harmonization versus regulatory competition and the means and institutions that provide for operative enforcement comparative research together with economic and empirical analysis will thus contribute to an understanding of the real functioning of company law a core task for the future of the european internal market but also beyond in a globalized world

it can be difficult for students of comparative company law both to understand the internationally relative nature of a legal system and grasp it in practical detail this book is designed to address that problem each chapter begins with a discursive analysis of the laws in germany the uk and the usa framed by a comparative presentation chapters also contain edited

judicial decisions from at least two of the jurisdictions which allow readers to perform their own comparisons in more detail and leave room for original analysis and discussion

as attention moves rapidly towards comparative approaches the research and teaching of company law has somehow lagged behind the overall purpose of this book is therefore to fill a gap in the literature by identifying whether conceptual differences between countries exist rather than concentrate on whether the institutional structure of the corporation varies across jurisdictions the objective of this book will be pursued by focusing on specific cases and how different countries might treat each of these cases the book also has a public policy dimension because the existence or absence of differences may lead to the question of whether formal harmonisation of company law is necessary the book covers 12 legal systems from different legal traditions and from different parts of the world though with a special emphasis on european countries in alphabetical order those countries are finland france germany italy japan latvia the netherlands poland south africa spain the uk and the us all of these jurisdictions are subjected to scrutiny by deploying a comparative case based study on the basis of these case solutions various conclusions are reached some of which challenge established orthodoxies in the field of comparative company law

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with respect to countries of the european union it focuses on the most populous countries germany france the uk spain italy and poland as well as two smaller member states finland and latvia in addition the laws of two of the world s largest economies the us and japan are included for the purposes of wider comparison all of these jurisdictions are subjected to scrutiny by deploying a comparative case based study on the basis of these case solutions various conclusions are reached some of which challenge established orthodoxies in the field of comparative company law

this book comprises a comprehensive survey of the most recent research being done on corporate governance in the triad europe with particular emphasis on germany and the uk the us and japan the comparative nature of the research brings forth new insights which studies conducted within one system may fail to produce the contributors to this volume represent a unique sample of scholars from throughout the triad and across disciplines

this is the second edition of this highly regarded comparative overview of corporate law it argues that the main function of corporate law is to address conflicts of interests and that despite economic and social diversity legal strategies employed across jurisdictions are surprisingly similar

the routledge handbook of corporate law provides an accessible overview of current research in the field from an international and comparative perspective in recent years there has been an explosion of corporate law research as this area of law continues to develop rapidly throughout the world traditionally anglo american corporate law theory has dominated debates and publications however this handbook readdresses the balance by exploring the treatment of corporate law in both europe and asia as well developments in the us and uk bringing together a wide range of key thinkers in the field this volume is divided into three main parts thinking about corporate law corporate law principles and governance some cross

cultural comparisons providing up to date and authoritative articles covering all the key aspects of corporate law this reference work is essential reading for advanced students scholars and practitioners in the field

an examination of important aspects of the company laws of seven european countries

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the analysis is notable for its insistence that for a corporate governance system to work the principles and practicalities of that system must be derived from customary cultural norms experience shows that imported models although they may be enshrined in law lead to economic stagnation unless actual practice is monitored and reformed and the laws change to reflect these necessary adjustments thus the model proposed here begins with the company law of 1994 and proceeds to show how practical experience is already providing valuable data for the task of improving the law

this paper identifies some common errors that occur in comparative law offers some guidelines to help avoid such errors and provides a framework for entering into studies of the company laws of three major jurisdictions the first section illustrates why a conscious approach to comparative company law is useful part i discusses some of the problems that can arise in comparative law and offers a few points of caution that can be useful for practical theoretical and legislative comparative law part ii discusses some relatively famous examples of comparative analysis gone astray in order to demonstrate the utility of heeding the outlined points of caution the second section offers a framework for approaching comparative company law part iii provides an example of using functional definition to demarcate the topic *quot company lawquot* offering an *quot effectsquot* test to determine whether a given provision of law should be considered as functionally part of the rules that govern the core characteristics of companies it does this by presenting the relevant company law statutes and related topical

laws of germany the united kingdom and the united states using delaware as a proxy for the 50 states on the basis of this definition part iv analyzes the system of legal functions that comprises quot company lawquot in the united states and the european union it selects as the predominant factor for consideration the jurisdictions sub jurisdictions and rule making entities that have legislative or rule making competence in the relevant territorial unit analyzes the extent of their power presents the type of law rules they enact issue and discusses the concrete manner in which the laws and rules of the jurisdictions and sub jurisdictions can legally interact part v looks at the way these jurisdictions do interact on the temporal axis of history that is their actual influence on each other which in the relevant jurisdictions currently takes the form of regulatory competition and legislative harmonization the method of the approach outlined in this paper borrows much from system theory the analysis attempts to be detailed without losing track of the overall jurisdictional framework in the countries studied

this is the long awaited third edition of this highly regarded comparative overview of corporate law this edition has been comprehensively revised and updated to reflect the profound changes in corporate law and governance practices that have taken place since the previous edition these include numerous regulatory changes following the financial crisis of 2007 09 and the changing landscape of governance especially in the us with the ever more central role of institutional investors as active owners of corporations the geographic scope of the coverage has been broadened to include an important emerging economy brazil in addition the book now incorporates analysis of the burgeoning use of corporate law to protect the interests of external constituencies without any contractual relationship to a company in an attempt to tackle broader social and economic problems the authors start from the premise that corporations or companies in all jurisdictions share the same key legal attributes legal personality limited liability delegated management transferable shares and investor ownership businesses using the corporate form give rise to three basic types of agency problems those between managers and



shareholders as a class controlling shareholders and minority shareholders and shareholders as a class and other corporate constituencies such as corporate creditors and employees after identifying the common set of legal strategies used to address these agency problems and discussing their interaction with enforcement institutions the anatomy of corporate law illustrates how a number of core jurisdictions around the world deploy such strategies in so doing the book highlights the many commonalities across jurisdictions and reflects on the reasons why they may differ on specific issues the analysis covers the basic governance structure of the corporation including the powers of the board of directors and the shareholder meeting both when management and when a dominant shareholder is in control it then analyses the role of corporate law in shaping labor relationships protection of external stakeholders relationships with creditors related party transactions fundamental corporate actions such as mergers and charter amendments takeovers and the regulation of capital markets the anatomy of corporate law has established itself as the leading book in the field of comparative corporate law across the world students and scholars at various stages in their careers from undergraduate law students to well established authorities in the field routinely consult this book as a starting point for their inquiries

this research handbook provides a state of the art perspective on how corporate governance differs between countries around the world it covers highly topical issues including corporate purpose corporate social responsibility and shareholder activism

this is the long awaited second edition of this highly regarded comparative overview of corporate law this edition has been comprehensively updated to reflect profound changes in corporate law it now includes consideration of additional matters such as the highly topical issue of enforcement in corporate law and explores the continued convergence of corporate law across jurisdictions the authors start from the premise that corporate or company law across jurisdictions addresses the same three basic agency problems 1 the opportunism of managers vis à vis shareholders 2 the opportunism of controlling

shareholders vis à vis minority shareholders and 3 the opportunism of shareholders as a class vis à vis other corporate constituencies such as corporate creditors and employees every jurisdiction must address these problems in a variety of contexts framed by the corporation's internal dynamics and its interactions with the product labor capital and takeover markets the authors central claim however is that corporate or company forms are fundamentally similar and that to a surprising degree jurisdictions pick from among the same handful of legal strategies to address the three basic agency issues this book explains in detail how and why the principal european jurisdictions japan and the united states sometimes select identical legal strategies to address a given corporate law problem and sometimes make divergent choices after an introductory discussion of agency issues and legal strategies the book addresses the basic governance structure of the corporation including the powers of the board of directors and the shareholders meeting it proceeds to creditor protection measures related party transactions and fundamental corporate actions such as mergers and charter amendments finally it concludes with an examination of friendly acquisitions hostile takeovers and the regulation of the capital markets

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