

Ius Comparatum – Global Studies in Comparative Law

Verica Trstenjak
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The Influence of Human Rights and Basic Rights in Private Law



 Springer

Influence Human Rights Private Comparatum

**Francesco Sindico, Makane Moïse
Mbengue**



Influence Human Rights Private Comparatum:

The Influence of Human Rights and Basic Rights in Private Law Verica Trstenjak, Petra Weingerl, 2015-12-16 This book provides a comparative perspective on one of the most intriguing developments in law the influence of basic rights and human rights in private law It analyzes the application of basic rights and human rights which are traditionally understood as public law rights in private law and discusses the related spillover effects and changing perspectives in legal doctrine and practice It provides examples where basic rights and human rights influence judicial reasoning and lead to changes of legislation in contract law tort law property law family law and copyright law Providing both context and background analysis for any critical examination of the horizontal effect of fundamental rights in private law the book contributes to the current debate on an important issue that deserves the attention of legal practitioners scholars judges and others involved in the developments in a variety of the world s jurisdictions This book is based on the General Report and national reports commissioned by the International Academy of Comparative Law and written for the XIXth International Congress of Comparative Law in Vienna Austria in the summer of 2014 General Reports of the XIXth Congress of the International Academy of Comparative Law Rapports Généraux du XIXème Congrès de l'Académie Internationale de Droit Comparé Martin Schauer, Bea Verschraegen, 2017-06-01 This book deals with convergences of legal doctrine despite jurisdictional cultural and political barriers and of divergences due to such barriers examining topics that are of vital importance to contemporary legal scholars Written by leading scholars from more than twenty countries its thirty two chapters present a comparative analysis of cutting edge legal topics of the 21st century While each of the countries covered stands alone as a sovereign state in a technologically advanced world their disparate systems nonetheless show comparable strategies in dealing with complex legal issues The book is a critical addition to the library of any scholar hoping to keep abreast of the major trends in contemporary law It covers a vast area of topics that are dealt with from a comparative point of view and represents the current state of law in each area **Damages for Violations of Human Rights** Ewa Bagińska, 2015-10-20 This volume analyses the legal grounds premises and extent of pecuniary compensation for violations of human rights in national legal systems The scope of comparison includes liability regimes in general and in detail the correlation between pecuniary remedies available under international law and under domestic law and special alternative compensation systems All sources of human rights violations are embraced including historical injustices and systematic and gross violations The book is a collection of nineteen contributions written by public international law international human rights and private law experts covering fifteen European jurisdictions including Central and Eastern Europe the United States Israel and EU law The contributions initially prepared for the 19th International Congress of Comparative law in Vienna 2014 present the latest developments in legislation scholarship and case law concerning domestic causes of action in cases of human rights abuses The book concludes with a comparative report which assesses the developments in tort law and public liability law the role of

the constitutionalisation of the right to damages as well as the court practice related to the process of enforcement of human rights through monetary remedies This country by country comparison allows to consider whether the value of protection of human rights as expressed in international treaties *ius cogens* and in national constitutional laws justifies the conclusion that the interests at stake should enjoy protection under the existing civil liability rules or that a new cause of action or even a whole new set of rules should be created in national systems

Fundamental Rights Challenges Cristina Izquierdo-Sans, Carmen Martínez-Capdevila, Magdalena Nogueira-Guastavino, 2021-06-17 This book presents a comprehensive review of fundamental rights issues that are currently in the spotlight The first part explores why the question of whether or not fundamental rights have horizontal effect is a topic of endless debate The second part focuses on human rights and the rule of law It begins by arguing that the hitherto valid model of the rule of law is now outdated and then goes on to outline the importance of the judicial dimension in countering threats to the independence of the judiciary Lastly the third part addresses a classic issue in the field of human rights states margin of appreciation highlighting two aspects i the elements used by the ECJ to determine the scope of the margin of appreciation which varies depending on the subject matter the nature of the right in question as well as the severity and the purpose of the interference and ii the margin of appreciation enjoyed by national courts when interpreting the law Exploring current issues concerning a topic of eternal interest the book will appeal to scholars and practitioners alike Written by formidable intellectual talents committed to the study of fundamental rights it rigorously analyses the most recent judgments of both the ECJ and the ECHR

Comparative Climate Change Litigation: Beyond the Usual Suspects Francesco Sindico, Makane Moïse Mbengue, 2021-01-21 This book is based on the acknowledgment that climate change is a multifaceted challenge that requires action on the part of all stakeholders including civil society and the notion that climate change is at a tipping point with urgent measures needed in the next decade Against this background civil society is turning its attention to the courts as a means to directly influence climate action partly because of the global scepticism towards the progress of global climate action despite the ongoing implementation of the Paris Agreement Focusing on the individual broadly representing civil society the book offers fresh perspectives on climate change litigation While most of the literature on climate change litigation examines the same specific jurisdictions mostly common law countries US and Australia in particular this book also considers specific countries in Asia Africa and Latin America with little or no climate change litigation It explores the reasons for the lack of litigation and discusses what measures should or could be taken to change this situation and push forward climate action Unlike other literature on the subject this book analyses climate change litigation using a scenario based methodology Combining rigorous academic analysis with a practical policy oriented focus the book provides valuable insights for a wide range of stakeholders interested in climate change litigation It appeals to civil society organisations around the world international organisations and law firms interested in climate change litigation

Judicial Review, Fundamental

Rights and Rule of Law Maria Grazia Rodomonte, Ludovica Durst, 2025-02-21 This book explores the complex issue of building a common European identity and the factors that contribute to it with special regard to the role played by the interaction between national Constitutional Courts and European Courts There is no doubt that the Courts have been key actors in the progressive establishment of this identity over the years by defining elements of homogeneity and affirming or reaffirming essential values such as human dignity in respect of that pluralism which represents a distinctive feature of Europe Nevertheless this circular movement has not failed to reveal contradictions and concerns that are still unresolved over time With contributions from authors from a range of backgrounds this work delves into the theme with a variety of approaches and perspectives It is structured in three main parts the first exploring the historical roots of a common European heritage emphasizing its role in shaping what is currently called the European way of life The second part examines the lights and shadows of constructing the European identity through the instruments of multilevel and inter court relationships by critically analysing the propulsive and homogenising tendencies coming in particular from the Court of Justice of the European Union The third part considers the so called dialogue between Courts by addressing some significant jurisprudential trends of supranational and national Courts and relevant cases in recent years offering new insights into the model of multilevel protection of rights Presenting a wide and comprehensive view of these topics the book will be of interest to those working in the fields of Constitutional European and Comparative Public Law as well as Legal History and Sociology

Greening the Civil Codes: Comparative Private Law and Environmental Protection Sabrina Lanni, 2023-05-12 This book examines the greening of civil codes from a comparative perspective It takes into account the increasing requirements of supranational rules which favour measures to reduce global warming and its negative environmental impacts it discusses the necessity to expand distributive justice given the current ecological emergency and it reflects on which private law legal tools potentially may be employed to defend nature s interests The work fills a gap in the growing literature on developing rights of nature and ecosystem in transnational law While the focus is on the environmental issues pertaining to the new civil codes and new projects of civil codes the book promotes interdisciplinary research applicable to a range of environmental and natural resources focused courses across the social sciences especially those related to comparative law systems legal anthropology legal traditions in the world political science and international relations

Whistleblowing - A Comparative Study Gregor Thüsing, Gerrit Forst, 2016-03-25 This volume takes a look at the status quo of whistleblowing in several jurisdictions from around the world Covering a topic that draws the attention of a broad public and is gaining importance amongst legislators practitioners and scholars all over the globe the book examines the various aspects of whistleblowing It looks at what kind of legal protection of whistleblowers is in force who is protected what kind of behaviour is protected and what kind of behaviour whistleblowers are protected against This is achieved by a combination of a general comparative report with country specific reports that give information on whistleblowing in various jurisdictions These countries include

amongst others Canada Germany France Italy the Netherlands and the USA A synopsis comprises information on whistleblowing in 23 countries in one tabula The chapters of this book were originally prepared for the XIXth International Congress of Comparative Law 20th and 21st sup July 2014 of International Academy of Comparative Law in Vienna *The Legal Treatment of Muslim Minorities in Italy* Andrea Pin, 2017-05-15 Islam is a growing presence practically everywhere in Europe In Italy however Islam has met a unique model of state neutrality religious freedom and church and state collaboration This book gives a detailed description of the legal treatment of Muslims in Italy contrasting it with other European states and jurisprudence and with wider global tendencies that characterize the treatment of Islam Through focusing on a series of case studies the author argues that the relationship between church and state in Italy and more broadly in Europe should be reconsidered both to secure religious freedom and general welfare Working on the concepts of religious freedom state neutrality and relationship between church and state Andrea Pin develops a theoretical framework that combines the state level with the supranational level in the form of the European Convention of Human Rights which ultimately shapes a unitary but flexible understanding of pluralism This approach should better accommodate not just Muslims needs but religious needs in general in Italy and elsewhere *General Reports of the XXth General Congress of the International Academy of Comparative Law - Rapports généraux du XXème Congrès général de l'Académie internationale de droit comparé* Katharina Boele-Woelki, Diego P. Fernández Arroyo, Alexandre Senegacnik, 2020-12-17 This book explores convergences of legal doctrine despite jurisdictional cultural and political barriers as well as divergences due to such barriers examining topics that are of vital importance to contemporary legal scholars Written by leading experts from all continents its 26 chapters present a comparative analysis of cutting edge legal issues of the 21st century While each of the countries covered stands alone as a sovereign state in a technologically advanced world their disparate systems nonetheless show comparable strategies in dealing with complex legal issues Several of the chapters show how in addition to state normative production and state adjudication a growing panoply of non state instruments and non state adjudication are becoming more and more central to the legal field This book is a key addition to the library of any scholar wanting to keep abreast of the major trends in contemporary law Representing the current state of law in a vast range of areas it covers each topic from a comparative perspective Cet ouvrage en examinant des sujets d'une importance vitale pour les juristes contemporains traite des convergences de la doctrine juridique malgré les barrières juridictionnelles culturelles et politiques ainsi que des divergences dues à ces barrières critiquées par des universitaires de tous les continents ses 26 chapitres présentent une analyse comparative de sujets juridiques majeurs du 21^e siècle Dans un monde technologiquement avancé bien que chaque pays analysé dans cet ouvrage demeure autonome en tant qu'état souverain l'ensemble des systèmes disparates présente néanmoins des stratégies comparables pour traiter des questions juridiques complexes En outre plusieurs chapitres montrent comment en plus de la production normative et de la résolution des différends techniques la panoplie croissante de diffé-

rents types d'instruments non tatiques et de résolution non tatique des différends devient de plus en plus centrale dans la sphère juridique Cet ouvrage est un ajout essentiel la bibliothèque de tout universitaire souhaitant se tenir au courant des principales tendances du droit contemporain Il couvre un vaste domaine de sujets traités d'un point de vue comparatif et représente l'état actuel du droit dans chaque domaine *Resources in Education*, 1993 **Data Protection in the Internet**

Dário Moura Vicente, Sofia de Vasconcelos Casimiro, 2019-12-01 This book identifies and explains the different national approaches to data protection the legal regulation of the collection storage transmission and use of information concerning identified or identifiable individuals and determines the extent to which they could be harmonised in the foreseeable future In recent years data protection has become a major concern in many countries as well as at supranational and international levels In fact the emergence of computing technologies that allow lower cost processing of increasing amounts of information associated with the advent and exponential use of the Internet and other communication networks and the widespread liberalization of the trans border flow of information have enabled the large scale collection and processing of personal data not only for scientific or commercial uses but also for political uses A growing number of governmental and private organizations now possess and use data processing in order to determine predict and influence individual behavior in all fields of human activity This inevitably entails new risks from the perspective of individual privacy but also other fundamental rights such as the right not to be discriminated against fair competition between commercial enterprises and the proper functioning of democratic institutions These phenomena have not been ignored from a legal point of view at the national supranational and international levels an increasing number of regulatory instruments including the European Union's General Data Protection Regulation applicable as of 25 May 2018 have been adopted with the purpose of preventing personal data misuse Nevertheless distinct national approaches still prevail in this domain notably those that separate the comprehensive and detailed protective rules adopted in Europe since the 1995 Directive on the processing of personal data from the more fragmented and liberal attitude of American courts and legislators in this respect In a globalized world in which personal data can instantly circulate and be used simultaneously in communications networks that are ubiquitous by nature these different national and regional approaches are a major source of legal conflict **Luis de Molina's De**

Iustitia Et Iure Diego Alonso-Lasheras, 2011-04-11 This book shows how threads of field research economic reflection natural law tradition casuistry and the quest for justice weave together in Luis de Molina's De Iustitia et Iure thus forming a major work of Catholic moral theology [Index of Conference Proceedings Received](#) British Library. Lending Division, 1988

American Renaissance Literary Report, 1988 **Religion Index One**, 2001 *Sociological Abstracts* Leo P. Chall, 2002 CSA Sociological Abstracts abstracts and indexes the international literature in sociology and related disciplines in the social and behavioral sciences The database provides abstracts of journal articles and citations to book reviews drawn from over 1 800 serials publications and also provides abstracts of books book chapters dissertations and conference papers

Resources in Education ,1993

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Protecting Human

Rights Todd Landman,2005-10-04 Ours has been called a global age of rights an era in which respect for human rights is considered the highest aspiration of the international democratic community Since the United Nation s 1948 Universal Declaration of Human Rights a wide variety of protections civil political economic social and cultural have been given legal validation as countries ratify treaties participate in intergovernmental organizations and establish human rights tribunals and truth and reconciliation commissions Yet notable human rights failures have marred the post Declaration era including ongoing state violence toward citizens the selectivity of humanitarian intervention evidenced by the international community s failure to respond in Rwanda and recent legislation in advanced democracies that trades some rights for protection against the threat of terrorism How are we to reconcile the language of rights with the reality Do we live in an age of rights after all In *Protecting Human Rights* Todd Landman provides a unique quantitative analysis of the marked gap between the principle and practice of human rights Applying theories and methods from the fields of international law international relations and comparative politics Landman examines data from 193 countries over 25 years 1976 2000 to assess the growth of the international human rights regime the effect of law on actual protection and global variation in human rights norms Landman contends that human rights foreign policy remains based more on geo strategic interest than moral internationalism He argues that the influence human rights ideals have begun to have on states cannot be separated from the broader impact of socioeconomic changes that swept the globe in the late twentieth century Landman concludes that international law alone will not suffice to fully protect human rights it must be accompanied by democratic government effective conflict resolution and just economic systems

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