

Key Research Areas

Hans Christoph Grigoleit

Fields of Research

Contract and tort law, corporate law, capital market law, European private law, theory of private law

Permanent Themes and Projects

I. Information Liability

Civil liability for informational misconduct, i.e. in cases of misrepresentation and non-disclosure of information. Economic background, general principles and sanctions of liability for informational misconduct. Informational liability in the context of other legal doctrines in contract law. Specific fields of informational liability, especially banking and capital markets law, corporate acquisitions, consumer protection law, e-commerce.

Selected publications: 1. *Vorvertragliche Informationshaftung - Vorsatzdogma, Rechtsfolgen, Schranken*, 1997. 2. *Informationspflichten: Grundlegende Weichenstellungen* (with Florian Faust) and *Die Aufklärungspflichten des acquis*, in: Eidenmüller/Faust/Grigoleit/Jansen/Wagner/Zimmermann *Revision des Verbraucher-acquis*, 2011, p. 193 ff. and p. 223 ff. 3. *Die Aufklärungspflichten des acquis*, in: *ibid.*, p. 223-266. 3. *Grenzen des Informationsmodells – Das Spread-Ladder-Swap-Urteil des BGH im System der zivilrechtlichen Informationshaftung*, in: Habersack/Mülbert/Nobbe/Wittig, *Anlegerschutz im Wertpapiergeschäft – Verantwortlichkeit der Organmitglieder von Kreditinstituten* (Bankrechtstag 2012), p. 25-64, 2013. 4. *Anlegerschutz - Produktinformationen und Produktverbote*, ZHR 177 (2013), p. 264-309. 5. *Zivilrechtliche Grundlagen der Wissenszurechnung*, ZHR 181 (2017), p. 160-202.

II. Fundamental Principles of Liability in Contracts and Torts

Autonomy and legal liability. Contract interpretation. Adjustment of contracts, judicial intervention. Categorization and systematization of liability criteria. Remedies.

Selected publications: 1. *Leistungspflichten und Schutzpflichten*, in: Heldrich et al. (Ed.), *Festschrift für Claus-Wilhelm Canaris zum 70. Geburtstag*, 2007, p. 275-306. 2. *Interpretation of Contracts*, in: Hartkamp et al., *Towards a European Civil Code*, 4. Aufl. 2010/2011, <http://ssrn.com/abstract=1537169> (with Claus-Wilhelm Canaris). 3. *Unexpected Circumstances in European Contract Law*, 2011 (Ed. with Ewoud Hondius), et al. <http://ssrn.com/abstract=2065840>. 4. *Unentgeltliche Verträge und Gefälligkeitsverhältnisse*, VersR 2018, p. 769-789. 5. *Der Diskurs über die Kategorien des Schadensersatzes im Leistungsstörungenrecht – Teleologische Dogmatisierung auf dem Prüfstand*, ZfPW 2019, p. 1 ff. (with Philip Bender). 6. *Zur Mechanik der Vertragsanpassung bei Grundlagenstörungen. Verhandlungspflichten und andere Verfahrensfragen*, in: Tölle et al. (Ed.), *Festschrift für Reinhard Singer zum 70. Geburtstag*, 2021, p. 205-224.

III. Corporate Governance – Corporate Finance

Legal and economic framework for shareholder participation, management and its supervisory boards. Protection of the corporate capital, shareholder liability, directors' liability. Specific regulation for corporate groups. Modification of corporate law in regulated industries (banking and insurance industries).

Selected publications: 1. *Gesellschafterhaftung für interne Einflussnahme im Recht der GmbH - Dezentrale Gewinnverfolgung als Leitprinzip des dynamischen Gläubigerschutzes*, 2006. 2. *Beteiligungstransparenz aufgrund des Aktienregisters*, ZHR 174 (2010), p. 12 ff. (with Richard Rachlitz). 3. *Kommentar zum Aktiengesetz*, 2nd ed. 2020 (ed. and author, in part together with other authors). 4. *Reform des Beschlussmängelrechts. Normative Grundlagen – empirische Rahmenbedingungen – wesentliche Reformelemente*, AG 2018, p. 645-662. 5. *Begründungslinien der Legalitätsverantwortung im Kapitalgesellschaftsrecht*, in: Boele-Woelki et al. (Ed.), *FS Karsten Schmidt zum 80. Geburtstag*, 2019, p. 367-390.

IV. European Private Law

General principles of positive and extra-positive law. Scope of the EU's legislative powers. Requirements imposed by EU primary and secondary law on the field of private law. The interplay of European and national private law as a problem for legal methodology. Assessment of different instruments of harmonization from a legal as well as a policy point of view. Development of quality criteria for EU legislation and its implementation on the national level. Problems associated with overregulation and perspectives for reform.

Selected publications: 1. *Der Gemeinsame Referenzrahmen für das Europäische Privatrecht – Wertungsfragen und Kodifikationsprobleme*, JZ 2008, p. 529 ff. (with Horst Eidenmüller, Florian Faust, Nils Jansen, Gerhard Wagner, Reinhard Zimmermann); engl. *Oxford Journal of Legal Studies*, 2008, p. 659 ff.; 2. *Der Verbraucheracquis und die Entwicklung des Europäischen Privatrechts*, AcP 210 (2010), p. 354-423. 3. *Die Europäische Kommission und ein Gemeinsames Europäisches Kaufrecht*, in: ZSE 4/2011, p. 560-573 (opinion for the committee on legal affairs of the Bundestag). 4. *Revision des Verbraucher-Acquis*, 2011 (with Horst Eidenmüller, Florian Faust, Nils Jansen, Gerhard Wagner, Reinhard Zimmermann). 5. *Against the Background of DCFR and CESL: Developing Quality Standards for Future Harmonization of European Contract Law*, in: *Universidade Católica Porto* (ed.), *A European Law of Obligations? The influence of the DCFR*, 2015; <http://ssrn.com/abstract=2636960>

V. Theory of Legal Reasoning

Rationality and objectivity of legal reasoning. Linguistic background. Positivity of law and extra-positive structures of reasoning. Permissibility of and boundaries to judge-made law. Distinction between absolute and relative (quantitative) legal criteria. Area-specific peculiarities of legal reasoning – theory of private law. Remedies.

Selected publications: 1. *Anforderungen des Privatrechts an die Rechtstheorie*, in: Jestaedt/Lepsius (eds.), *Rechtswissenschaftstheorie*, 2008, p. 52 ff. 2. *Das historische Argument in der geltendrechtlichen Privatrechtsdogmatik*, ZNR 2008, p. 259-271. 3. *Methodik – Dogmatik – Teleologik*, in: FS Canaris, 2017, p. 241-279. 4. *The Law between Generality and Particularity – Potentials and Limits of Personalized Law*, in: Busch/De Franceschi (Ed.), *Data Economy and Algorithmic Regulation*, 2020, p. 115-136 (with Philip Bender). 5. *Subjectivism, Objectivism and Intuitionism in Legal Reasoning – Avoiding the Pseudos*, in: Bender (Ed.), *The Law Between Objectivity and Power*, 2022, p. 99-108.

Research project: LexAlyze – Synergies of legal theory and informatics (interdisciplinary research project, with Florian Matthes, Chair for Software Engineering, TU München), <http://www.en.lexalyze.de/>.

Complete list of publications: http://www.jura.uni-muenchen.de/personen/g/grigoleit_hans/ressourcen/publications.pdf