

# GERMAN LAW JOURNAL

## Review of Developments in German, European and International Jurisprudence

**Editors-in-Chief:** Russell Miller; Peer Zumbansen

**Editors:** Miriam Aziz; Gregor Bachmann; Graf-Peter Calliess; Matthias Casper;  
Morag Goodwin; Dominik Hanf; Florian Hoffmann; Alexandra Kemmerer;  
Malcolm Maclaren; Stefan Magen; Ralf Michaels; Petra Minnerop;  
Hanri Mostert; Betsy Röben; Volker Röben; Christoph Safferling;  
Marlene Schmidt; Frank Schorkopf; Robert Schütze; Craig Smith; Cornelia Vismann.

[www.germanlawjournal.com](http://www.germanlawjournal.com)

© Copyright 2000 - 2004 by German Law Journal GbR. All rights reserved.

**Vol. 05 No. 10**

**Pages 1187 -1336**

**01 October 2004**

### TABLE OF CONTENTS

#### PUBLIC LAW

- Michael Tonry  
Why Aren't German Penal Policies Harsher and  
Imprisonment Rates Higher? 1187 - 1206
- Michael Jasch  
Police Cautions and the vanishing Differences  
between Legality and Discretion in European  
Criminal Justice Systems 1207 - 1216

TABLE OF CONTENTS PAGE I

## TABLE OF CONTENTS

### PRIVATE LAW

Jochen Herbst

- Management Buy-Out, Cash Pooling, Up-Stream  
Loans and Guarantees in German Group  
Companies: Old Concepts – New Developments 1217 - 1232

Dagmar Schiek

- Agency Work – from Marginalisation towards  
Acceptance? Agency work in EU Social and  
Employment Policy and the “implementation” of  
the draft Directive on Agency work into German  
law 1233 - 1257

### EUROPEAN & INTERNATIONAL LAW

Karolina Szawlowska

- Risk Assessment in the European Food Safety  
Regulation: Who is to Decide Whose Science is  
Better? Commission v. France and Beyond... 1259 - 1274

Athanasios Kouloridas and Jens von Lackum

- Recent Developments of Corporate Governance in  
the European Union and their Impact on the  
German Legal System 1275 - 1294

Malcolm Maclaren & Michael Frei

- A 'Common European Home'? The Rule of Law  
and Contemporary Russia 1295 - 1315

## TABLE OF CONTENTS

### LEGAL CULTURE

Hans-Ernst Böttcher	
The German Judiciary System	1317 - 1330
Stefan Bitter	
Book Review - Verwaltung und Governance im Mehrebenensystem der Europäischen Union (Siegfried Magiera/Karl-Peter Sommermann eds. 2002)	1331 - 1336