

# Company Laws of the EU

A Handbook

edited by

Andrea Vicari  
Alexander Schall

  
**beck-shop.de**  
DIE FACHBUCHHANDLUNG  
2020



*Published by*

Verlag C.H.Beck oHG, Wilhelmstraße 9, 80801 München, Germany  
email: [bestellung@beck.de](mailto:bestellung@beck.de)

*Co-published by*

Hart Publishing, Kemp House, Chawley Park, Cumnor Hill, Oxford, OX2 9PH, United Kingdom  
online at: [www.hartpub.co.uk](http://www.hartpub.co.uk)

and

Nomos Verlagsgesellschaft mbH & Co. KG, Waldseestraße 3–5, 76530 Baden-Baden, Germany  
email: [nomos@nomos.de](mailto:nomos@nomos.de)

Published in North America by Hart Publishing

An Imprint of Bloomsbury Publishing 1385 Broadway, New York, NY 10018, USA  
email: [mail@hartpub.co.uk](mailto:mail@hartpub.co.uk)

Recommended citation:

[Autor], in: Vicari/Schall, Company Laws of the EU, 2020, p. [#], mn. [#]

**beck-shop.de**  
DIE FACHBUCHHANDLUNG  
[www.beck.de](http://www.beck.de)

ISBN 978 3 406 71479 5 (C.H.BECK)

ISBN 978 1 5099 2399 1 (HART)

ISBN 978 3 8487 5615 5 (NOMOS)

© 2020 Verlag C.H.Beck oHG

Wilhelmstr. 9, 80801 München

Printed in Germany by

Druckerei C.H.Beck Nördlingen

(Adresse wie Verlag)

Typeset by

Reemers Publishing Services GmbH, Krefeld

Cover: Druckerei C.H.Beck Nördlingen

CO<sub>2</sub>  
neutral

[chbeck.de/nachhaltig](http://chbeck.de/nachhaltig)

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission of Verlag C.H.Beck, or as expressly permitted by law under the terms agreed with the appropriate reprographic rights organisation.

Enquiries concerning reproduction which may not be covered by the above should be addressed to C.H.Beck at the address above.

## Preface

This work stems from the curiosity shown by some young scholars, who, aware of the ease with which it is now possible to identify the case law and doctrine of their countries of origin, required to be able to also access an (at least synthetic) illustration of the company law of central European countries. Complying with this curiosity, we initiated contacts with various university colleagues of the European countries with higher population density (in particular the Faculty of Law of the University of Leeds, Lüneburg, Maastricht, Madrid-Complutense, Milan, Paris-Sorbonne, Timisoara, Warsaw) and proposed to compile a Treatise of European Corporate Laws.

Our proposal has found immediate support by the publisher C.H. Beck, always attentive in trying to facilitate the dialogue between academics and practitioners of different nations. The participation of our colleagues Joan Loughrey, Steins Bisschop, Juana Pulgaz Ezquerro, Alain Pietrancosta, Lucien Bercea, Adam Opalski, who took on responsibility for their jurisdictions with great enthusiasm and dedication, has allowed the work to be published. We owe them our deepest gratitude.

The book contains also a part dedicated to the company law of the United Kingdom, given that, at the start of the project, the country was a member of the European Union. We believe that this part remains of high interest despite the subsequent political events and the leave of the country from the Union, last but not least because of the future relationship with our close neighbour.

We are greatly indebted to all authors who contributed their learned articles and allowed the the completion of the volume; we would like also to thank Valerio Giannetta and Mattia Maggioni for their help in finalizing the manuscripts.

Against the background of ever increasing corporate mobility in Europe, the book hands over a key to the corporate laws of core jurisdictions. May European law gain insights and inspiration for future harmonisation. We hope therefore that we can make a valuable comparative law contribution and that the book will be kindly received by practitioners and academics.

Milan – Lüneburg, April 2020.

*Andrea Vicari  
Alexander Schall*

## Table of Contents

Preface .....	V
List of Contributors.....	IX

### Part 1 France

Chapter 1. Introduction.....	1
Chapter 2. Stock corporations: foundation and financing .....	15
Chapter 3. Stock corporations: corporate governance .....	44
Chapter 4. Stock corporations: internal and external controls.....	89
Chapter 5. Limited liability companies: foundation and financing.....	109
Chapter 6. Limited liability companies: corporate governance and controls.....	127
Chapter 7. Groups of companies.....	145
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	170

### Part 2 Germany

Chapter 1. Introduction.....	199
Chapter 2. Stock corporation: foundation and financing.....	213
Chapter 3. Stock corporations: corporate governance .....	256
Chapter 4. Stock corporations: internal and external controls.....	300
Chapter 5. Limited liability companies: foundation and financing.....	323
Chapter 6. Limited liability companies: corporate governance and controls.....	338
Chapter 7. Groups of companies.....	380
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	403

### Part 3 Italy

Chapter 1. Introduction.....	427
Chapter 2. Stock corporation: foundation and financing.....	440
Chapter 3. Stock corporations: corporate governance .....	479
Chapter 4. Stock corporations: internal and external controls.....	521
Chapter 5. Limited liability companies: foundation and financing.....	554
Chapter 6. Limited liability companies: corporate governance and controls.....	578
Chapter 7. Groups of companies.....	606
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	629

### Part 4 Poland

Chapter 1. Introduction.....	661
Chapter 2. Stock corporation: foundation and financing.....	672
Chapter 3. Stock corporations: corporate governance .....	706
Chapter 4. Stock corporations: internal and external controls.....	738
Chapter 5. Limited liability companies: foundation and financing.....	766
Chapter 6. Limited liability companies: corporate governance and controls.....	799
Chapter 7. Groups of companies.....	830
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	856

### Part 5 Romania

Chapter 1. Introduction.....	893
Chapter 2. Stock corporation: foundation and financing.....	904

## Table of Contents

Chapter 3. Stock corporations: corporate governance .....	932
Chapter 4. Stock corporations: internal and external controls.....	962
Chapter 5. Limited liability companies: foundation and financing.....	975
Chapter 6. Limited liability companies: corporate governance and controls.....	994
Chapter 7. Groups of companies.....	1013
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	1037

### Part 6

#### Spain

Chapter 1. Introduction.....	1067
Chapter 2. Stock corporations: foundation and financing.....	1079
Chapter 3. Stock corporations: corporate governance .....	1110
Chapter 4. Stock corporations: internal and external controls.....	1151
Chapter 5. Limited liability companies: foundation and financing.....	1174
Chapter 6. Limited liability companies: corporate governance and controls.....	1201
Chapter 7. Groups of companies.....	1226
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	1248

### Part 7

#### The Netherlands

Chapter 1. Introduction.....	1281
Chapter 2. Stock corporation: foundation and financing.....	1287
Chapter 3. Stock corporations: corporate governance .....	1310
Chapter 4. Stock corporations: internal and external controls.....	1342
Chapter 5. Limited liability companies: foundation and financing.....	1357
Chapter 6. Limited liability companies: corporate governance and controls.....	1380
Chapter 7. Groups of companies.....	1400
Chapter 8. Extraordinary corporate transactions. Liquidation and winding up.....	1432

### Part 8

#### United Kingdom

Chapter 1. Introduction.....	1457
Chapter 2. Foundation and financing .....	1463
Chapter 3. Stock corporations: corporate governance and external and internal controls .....	1495
Chapter 4. Limited liability companies: foundation and financing.....	1540
Chapter 5. Limited liability companies: corporate governance and controls.....	1556
Chapter 6. Groups of companies.....	1578
Chapter 7. Extraordinary corporate transactions. Liquidation and winding up.....	1600

## List of Contributors

- Ansault**, Jean-Jacques: Full Professor of Corporate Law, University of Rouen
- Baccetti**, Nicolò: Associate Professor of Corporate Law, University of Milan Law School
- Bärnreuther**, Max: Ph.D. candidate at the Chair for Civil Law, German and International Business Law at the University of Passau
- Barsan**, Iris: Maitre de conferences, University of Paris XII Créteil
- Bavoso**, Vincenzo: Lecturer in Commercial Law, School of Law, University of Manchester
- Bercea**, Lucian: Full Professor of Corporate Law, Faculty of Law, West University of Timișoara
- Bojin**, Lucian: Associate Professor of Corporate Law, Faculty of Law, West University of Timișoara
- Cărămidariu**, Dan-Adrian: Assistant Professor of Corporate Law, Faculty of Law, West University of Timișoara
- Colombo**, Francesca: Assistant Professor of Corporate Law, University of Milan Law School
- Doroga**, Sorina: Senior Lecturer, Faculty of Law, West University of Timișoara
- Dybiński**, Jacek: Assistant Professor of Corporate Law dr., Jagiellonian University in Cracow
- Espín Gutiérrez**, Cristóbal: Full Professor of Corporate Law, Complutense University of Madrid Law School
- Esser**, Irene-Marié: Senior Lecturer in Commercial Law: University of Glasgow, Professor *Extraordinarius*, University of South Africa
- Folladori**, Lucia: Assistant Professor of Corporate Law, University of Milan Law School
- François**, Bénédicte: Full Professor of Corporate Law, University of Paris Est – Créteil
- Fuentes Naharro**, Mónica: Full Professor of Corporate Law, Complutense University of Madrid Law School
- Grossi**, Isabelle: Maitre de conferences, University of Aix-Marseille
- Hannigan**, Brenda: Full Professor of Corporate Law, Southampton Law School, University of Southampton
- Jerzmanowski**, Jędrzej: Assistant Professor of Corporate Law, Adam Mickiewicz University of Poznań, Chair of Civil, Commercial and Insurance Law
- Kemp**, Bastiaan: Lawyer at Loyens & Loeff and Assistant Professor Corporate Law, Maastricht University, Institute for Corporate Law, Governance and Innovation Policies
- Klappstein**, Verena: Assistant professor, University of Passau
- Ledouble**, Dominique: Accounting expert
- Lieder**, Jan: Full Professor of Corporate Law, University of Freiburg
- Loughrey**, Joan: Full Professor of Corporate Law, Centre for Business Law and Practice, School of Law, University of Leeds
- Machunsky**, Jan: Ph.D-Student and Scholar, Leuphana University Lüneburg
- Manzoni**, Paolo: Assistant Professor of Corporate Law, University of Milan Law School
- Marín de la Bárcena Garcimartín**, Fernando: Associate Professor of Corporate Law, Complutense University of Madrid Law School
- Martínez**, María Teresa Martínez: Full Professor of Corporate Law, Complutense University of Madrid Law School

## *List of Contributors*

**Martínez Rosado**, Javier: Associate Professor of Corporate Law, Complutense University of Madrid Law School

**Mataczyński**, Maciej: Full Professor of Corporate Law, Adam Mickiewicz University of Poznań, Chair of European Law

**Mortier**, Renaud: Full Professor of Corporate Law, University of Rennes

**Moskała**, Piotr: Ph.D., University of Warsaw

**Opalski**, Adam: Full Professor of Corporate Law, University of Warsaw

**Oplustil**, Krzysztof: Full Professor of Corporate Law, Jagiellonian University in Cracow

**Olaerts**, Mieke: Full Professor of Comparative and National Company Law, Elverding Chair on Sustainable Business, Culture and Corporate Regulation and Academic Director of the Institute of Corporate Law, Governance and Innovation Policies, Maastricht University, Of Counsel at DVDW Advocaten

**Pedersoli**, Edoardo: Assistant Professor of Corporate Law, University of Milan Law School

**Pérez Millán**, David: Associate Professor of Corporate Law, Complutense University of Madrid Law School

**Pietrancosta**, Alain: Full Professor of Corporate Law, Sorbonne Law School of Paris

**Poelzig**, Dörte: Full Professor of Civil Law, German and International Business Law, University of Leipzig

**Popovici**, Sergiu: Associate Professor of Corporate Law, Faculty of Law, West University of Timișoara

**Poracchia**, Didier: Full Professor of Corporate Law, Sorbonne Law School of Paris

**Pulgar Ezquerro**, Juana: Full Professor of Corporate Law, Complutense University of Madrid Law School

**Rammello**, Stephan: Associate Professor of Private International Law, Comparative Company Law and Commercial Arbitration & Litigation, Maastricht University, Institute for Corporate Law, Governance and Innovation Policies

**Raynouard**, Arnaud: Full Professor of Corporate Law, University of Paris IX Dauphine

**Regucki**, Tomasz: Ph.D., Jagiellonian University in Cracow

**Reisberg**, Arad: Full Professor of Corporate Law and Finance; Head, Brunel Law School, Brunel University of London

**Renssen**, Samantha: Assistant Professor of Corporate and Insolvency Law, Maastricht University, Institute for Corporate Law, Governance and Innovation Policies

**Roelink**, Hugo: Student of Corporate Law and Financial Economics, Erasmus University of Rotterdam

**Roos**, Paul: Lecturer Private Law, Maastricht University, Institute for Corporate Law, Governance and Innovation Policies

**Sacchi**, Roberto: Full Professor of Corporate Law, University of Milan Law School

**Schall**, Alexander: Full Professor of Private and Corporate law, University of Lüneburg

**Schiller**, Sophie: Full Professor of Corporate Law, University of Paris IX Dauphine

**Schlumberger**, Edmond: Full Professor of Corporate Law, University of Paris VIII – Vincennes Saint-Denis

**Signes de Mesa**, Juan Ignacio: Full Professor of Corporate Law, Complutense University of Madrid Law School

**Simon**, Jonathan: Corporate lawyer in the law firm Beiten Burkhardt, Düsseldorf

### *List of Contributors*

**Sitaru**, Dan-Alexandru: Senior Lecturer, Faculty of Law, University “Nicolae Titulescu” of Bucharest

**Sójka**, Tomasz: Full Professor of Corporate Law, Adam Mickiewicz University of Poznań

**Stărc-Meclejan**, Flaminia: Senior Lecturer, Faculty of Law, West University of Timișoara

**Steins Bisschop**, Bas: Full Professor of Corporate Law and Corporate Governance, Maastricht University, Institute for Corporate Law, Governance and Innovation Policies and Nyenrode Business University

**Stöber**, Michael: Full Professor of Law, Institute of Economic and Tax Law, Faculty of Law, Christian-Albrechts-University of Kiel

**Tapia Hermida**, Alberto: Full Professor of Corporate Law, Complutense University of Madrid Law School

**Tec**, Lavinia: Associate Professor of Corporate Law, Faculty of Law, West University of Timișoara

**Tenenbaum**, Aline: Maitre de conferences, University of Paris XII Créteil

**Tina**, Andrea: Full Professor of Corporate Law, University of Milan Law School

**Vicari**, Andrea: Full Professor of Corporate Law, University of Milan Law School

**Wolf**, Rogier: Assistant Professor of Corporate Law at the Institute for Corporate Law, Governance and Innovation Policies, Maastricht University, lawyer at UdinkSchepeel Advocaten, The Hague



**beck-shop.de**  
DIE FACHBUCHHANDLUNG