

# GERMAN LAW JOURNAL

Developments in German, European and International Jurisprudence

## Editors-in-Chief

Matthias Goldmann; Russell Miller; Jule Mulder; Emanuel Towfigh; Floris de Witte

## Editors

Matej Avbelj; Jürgen Bast; Iris Canor; Patrycja Dabrowska; Victoria Daskalova;  
Michèle Finck; Alexander Heinze; Jen Hendry; Agnieszka Janczuk-Gorywoda; Poul Kjaer; Nandor Knust;  
David Kosař; Stefan Magen; Anna Katharina Mangold; Nora Markard; Jud Mathews; Joana Mendes;  
Alexander Morell; Anna Katharina von Oettingen; Emanuela Orlando; Niels Petersen; Sara Poli;  
Athanasios Psygkas; Christoph Safferling; Karsten Schneider; Maria Varaki

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

© Copyright 1999 – 2018 by German Law Journal, E.v. All rights reserved.  
ISSN: 2071-8322 / ISSN: 2071-8322

**Vol. 19 No. 04**

**Pages 665-1116**

**01 July 2018**

## Law & the new Economy

*Michèle Finck*

Blockchains: Regulating the Unknown

665-692

*Robin F. Hansen*

Taking More than They Give: MNE Tax Privateering and  
Apple's "Ocean" Income

693-726

### The rule of law, constitutionalism and the judiciary

*Emilio Peluso Neder Meyer*

Judges and Courts Destabilizing Constitutionalism: The Brazilian Judiciary Branch's Political and Authoritarian Character 727-768

*Anne Sanders & Luc von Danwitz*

Selecting Judges in Poland and Germany: Challenges to the Rule of law in Europe and Propositions for a new Approach to Judicial Legitimacy 769-816

*Lasse Schuldt*

Mixed Signals of Europeanization: Revisiting the NPD Decision in Light of the European Court of Human Rights' Jurisprudence 817-844

*Hans Petter Graver*

Why Adolf Hitler Spared the Judges: Judicial Opposition Against the Nazi State 845-878

*Alberto Vespaziani*

"Force Disguised as Reason": Law, Jurists, and Constituent Power in Boccaccio's Decameron 879-900

## Table of Contents

### Developments

*Dennis Dixon*

Article 50 and Member State Sovereignty 901-940

*Christian Schaller*

Strategic Surveillance and Extraterritorial Basic Rights  
Protection: German Intelligence Law After Snowden 941-980

*Csongor István Nagy*

Intra-EU Bilateral Investment Treaties and EU Law  
After Achmea: “Know Well What Leads You Forward  
and What Holds You Back” 981-1016

### Translation

*Ewan McGaughey*

Otto von Gierke: The Social Role of Private Law 1017-1116