

Johannes Cziupka

Dispositives Vertragsrecht

Funktionsweise und Qualitätsmerkmale gesetzlicher Regelungsmuster



Gaps in contracts are inevitable. Psychological limits to foreseeing every contingency combined with high transaction costs prevent contracting parties from closing perfectly complete contracts. The state thus becomes responsible for supporting private autonomy in contract formation by providing contractual gap fillers. Gap fillers in the form of default rules allow the parties either to let the law govern their relationship or to provide for the contrary. Accordingly, such default rules are necessary for any legal system based on the idea of personal autonomy in order for it to function properly. However, the exact purpose and scope as well as the optimal content of these non-mandatory rules is highly controversial. In this work, Johannes Cziupka shows that a comprehensive default-rule analysis requires an interdisciplinary approach that includes an economic analysis of law combined with a philosophical study of private law.

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