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Humberto Ávila

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Certainty in Law Humberto Ávila,2016-07-20 Instead of the usual apologetic treatment found in legal doctrine linked to the determinacy immutability or predictability of norms this book treats legal certainty innovatively holistically and in depth Using a method at once analytical and functional Professor vila examines the structural elements of legal certainty from its definition and foundations to its various dimensions normative forces and efficacies citing a wealth of examples from case law to support each of the theses defended No subject is more important and topical than legal certainty Problems relating to lack of understanding instability and unpredictability of law intensify day by day everywhere in civil law and common law countries alike Normative sources are increasingly diverse in origin national international community and multiple in nature legal contractual jurisprudential They change constantly and present increasingly frequent problems of ambiguity and vagueness that significantly hinder their comprehension This state of affairs which to a greater or lesser extent is true of any legal order justifies a return to the subject of legal certainty In this book essential questions are answered such as Legal certainty in what sense Certainty of what for whom in whose vision and by whom When to what extent and to what end it is probably the most comprehensive and systematic study ever produced on this subject using the analytical method Riccardo Guastini Professor of Jurisprudence University of Genoa Italy *Das Verfassungsprinzip der Demokratie* Sebastian Unger,2008 English summary Based on the distinction between rules and principles established in legal theory Sebastian Unger examines the normative structure of the democratic principle enshrined in the German Basic Law In doing so he not only describes the normative coordinates of the German system of democratic legitimation but also deals with the question of how the German constitutional system reacts to changing circumstances thereby describing the relationship between constitutional normativity and factuality in phases of upheaval German description In den im Zuge eines tiefgreifenden Wandels der Verfassungswirklichkeit durch Internationalisierung und Partikularisierung neu entbrannten Streit um die Aussagen des grundgesetzlichen Demokratieprinzips fuhrt Sebastian Unger einen neuen normstrukturtheoretischen Ansatz ein Er untersucht ob das Demokratieprinzip als Rechtsregel Festsetzungen enthalt oder ob es als Rechtsprinzip auf Spezifizierung Abwagung und Optimierung angelegt ist Aus Art 79 GG als dem Ordnungsprinzip des grundgesetzlichen Verfassungsrechtssystems entwickelt er ein Rechtsregel und Rechtsprinzipienmodell des Grundgesetzes und differenziert auf seiner Grundlage zwischen einem rechtsprinzipiellen Kern des Demokratieprinzips in Art 20 Abs 1 GG einerseits und hierauf bezogenen Ausfuhrungsbestimmungen in Art 20 Abs 2 GG sowie weiteren demokratiespezifischen Regelungen des Grundgesetzes andererseits Wahrend der rechtsprinzipielle Kern durch das spannungsvolle Nebeneinander von demokratischer Freiheit und demokratischer Gleichheit gekennzeichnet und auf Abwagung und Optimierung angelegt ist enthalten die Ausfuhrungsbestimmungen als Rechtsregeln bereits verfassungskraftige Festsetzungen Entfaltet werden in dieser Perspektive nicht nur die normativen Koordinaten des grundgesetzlichen Systems demokratischer Legitimation

Verhandelt wird auch die Frage wie das Grundgesetz auf Veranderungen der Verfassungswirklichkeit reagiert mithin das Verhaltnis von verfassungsrechtlicher Normativitat und verfassungsrechtlicher Faktizitat in Umbruchzeiten Das Buch wurde mit dem Fakultatspreis der Juristischen Fakultat der Ludwig Maximilians Universitat Munchen und dem Promotionspreis der Munchener Juristischen Gesellschaft ausgezeichnet **Der grenzüberschreitende Sachverhalt im Unionsrecht** André Lippert,2013 Der grenzuberschreitende Sachverhalt ist der Yeti des Europarechts Alle kennen ihn aber keiner hat ihn wirklich gesehen Trotz der allgemeinen Versicherung er sei fur die Anwendung des Unionsrechts notwendig wird er nirgends definiert Dabei gehort er zu den Grundlagen des Staaten und Verfassungsverbundes Das gilt insbesondere fur die Kontrollkompetenzen mit denen die Union Massnahmen auf ihre Binnenmarktkonformitat hin uberpruft und bei denen das Subsidiaritatsprinzip keine Anwendung findet Die vorhandenen Ansatze des EuGH zum grenzuberschreitenden Sachverhalt die der Autor auswertet und analysiert erscheinen wenig systematisiert und orientieren sich an quantitativ okonomischen Kriterien Sollen jedoch dauerhaft die Akzeptanz und demokratische Legitimation europaischer Entscheidungen sichergestellt werden mussen rechtliche Kriterien gefunden werden die die Grundstruktur der Europaischen Union als Staatenverbund abbilden **New Perspectives on the Divide Between National and International Law** André Nollkaemper,Janne Elisabeth Nijman,2007 This book analyses one of the most pressing issues of modern international law the relationship between the international legal order and the domestic legal orders of sovereign states It contains different perspectives on the legal complexity that results from the interactions between the international and domestic spheres **German Yearbook of International Law** ,2007 **Integration** ,2005 □□□□□□□□ ,2005 *Handbuch des Staatsrechts der Bundesrepublik Deutschland* Josef Isensee,Paul Kirchhof,2003 **Jahrbuch zur Staats- und Verwaltungswissenschaft** ,1994 **Zeitschrift für Politik** Richard Karl Bernhard Schmidt,Adolf Grabowsky,2004 □□□□ ,2007 □□□□□□□□□□ □□ □,2009-02 Festschrift für Dimitris Th. Tsatsos Peter Häberle,Martin Morlok,2003 **Eur. Zeitschrift Des Öffentl. Rechts** ,2004 □□□□□ □□□□,□□□□,2005-12 21 *Das Wesen und die Entwicklung der gemeindlichen öffentlichen Einrichtungen* Rupert Scholz,1967 Bundesverfassungsgerichtlicher Grundrechtsschutz und Europäisches Gemeinschaftsrecht Rudolf Streinz,1989 Teil 1 Problemstellung *Sicherheit in der Europäischen Union* Armin Hatje,Martin Nettesheim,2009 Im Jahr 2008 diskutierte der Gesprachskreis Europaisches Verfassungsrecht der Vereinigung der deutschen Staatsrechtslehrer im Vorfeld der Staatsrechtslehrertagung die Grundsatzfrage der Sicherheit in der Europaischen Union In den hier dokumentierten Vortragen befassten sich Prof Dr Markus Kotzur LL M mit den Grundfragen einer europaischen Sicherheitspolitik Prof Dr Markus Mostl mit den Rechtsgrundlagen und Rechtsbestand der Europaischen Sicherheitspolitik und Prof Dr Dr Christoph Grabenwarter mit dem Grundrechtsschutz im Bereich der europaischen Sicherheitspolitik □□□□ ,2006 Recht und Staat in Geschichte und Gegenwart ,1967

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