

**Allgemeiner Teil**

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# 134163 Allgemeiner Teil 4

**Michael Anton**



#### **134163 Allgemeiner Teil 4:**

**Internationales Kulturgüterprivat- und Zivilverfahrensrecht** Michael Anton, 2010-12-23 Band 3 wird in besonderem Maße der Internationalität des Kulturgüterschutz und Kunstrestitutionsrechts gerecht. Zunächst finden das zivilrechtliche Anspruchssystem mögliche Verteidigungsmittel gegen unberechtigte Kunstrestitutionsforderungen und Gegenansprüche rechtmäßig zur Restitution Verpflichteter Erläuterung. Zweiter Schwerpunkt liegt auf dem Internationalen Kulturgüterzivilverfahrensrecht und der Frage, welche formellen und verfahrenstechnischen Besonderheiten bei Kunstrestitutionsklagen bestehen. Im Zentrum der Untersuchungen stehen schließlich das Internationale Kulturgüterprivatrecht und die in der Praxis bedeutsame Frage, welche nationale Zivilrechtsordnung in Kunstrestitutionsverfahren zur Entscheidung berufen ist. Aufgrund der vehementen Kritik an der universal geltenden *lex rei sitae* werden abschließend mögliche Reformbestrebungen beleuchtet und dabei insbesondere eine *ordre public* Widrigkeit des illegalen Kulturgüterverkehrs, alternative Anknüpfungsmaximen wie etwa die *lex originis*, eine extraterritoriale Berücksichtigung ausländischer Kulturgüter- und Denkmalschutzgesetze sowie Ansatz einer materiellen Privatrechtsvereinheitlichung im internationalen Kulturgüterverkehr geprüft.

**Illegaler Kulturgüterverkehr** Michael Anton, 2010. Spektakuläre Kunstdiebstahle, Schmuggel nationaler Kunstschätze und illegaler Antikenhandel betreffen heute alle im Kunstmarkt Beteiligten. Sensationell sind die Restitutionsforderungen der aus jüdischem Besitz entzogenen Raubkunst aus den besetzten Territorien geplünderten Beutekunst und die Sicherstellung der entarteten Kunst während der NS-Zeit. Die Bundesrepublik sehnt sich nach der in Russland lagernden Trophäekunst. Erst heute werden die Verstaatlichungen privater und öffentlicher Kunst und Antiquitätensammlungen innerhalb des Unrechtsregimes der DDR angeprangert. Brandaktuell ist schließlich die Diskussion um kolonial- und fundteilungsbedingte Kulturgutverlagerungen in den großen Museen der Welt. Band 1 eröffnet dem Leser die ganze Tragweite des illegalen Kulturgüterverkehrs aus tatsächlicher wie rechtlicher Sicht und verdeutlicht in wie vielen Konstellationen die Handbücher zum Kulturgüterschutz und Kunstrestitutionsrecht für Museen, Kunsthandel, Auktionswesen und Privatsammler insbesondere aber auch für öffentliche Institutionen, Behörden und ausländische Botschaften anwendbar sind.

**Zulässigkeit und Bindungswirkung gemeinschaftlicher Testamente im Internationalen Privatrecht** Carl Friedrich Nordmeier, 2008. English summary: Joint wills are permitted by the German law of succession. These wills do however cause serious problems in German private international law since the law applicable to wills is the law of the testator's nationality. Portuguese speaking legal systems prohibit joint wills but tolerate them partially in case of a conflict of laws. In this work Carl Friedrich Nordmeier analyzes the validity and the binding force of such wills made by two testators of the same foreign nationality and two of mixed nationalities. He bases this on an examination of the legal systems of all the Lusophonic countries. The results permit conclusions for German private international law and serve as a basis for the author's draft of a conflict of law rule in the context of the forthcoming European harmonization of private international law pertaining to

successions and wills German description Gemeinschaftliche Testamente bereiten im deutschen IPR erhebliche Qualifikationsprobleme Haben Testatoren eines gemeinschaftlichen Testaments dieselbe ausländische Staatsangehörigkeit beruft das deutsche IPR für Zulässigkeit und Bindungswirkung das entsprechende ausländische Recht Nimmt dieses die Verweisung an verbietet aber sachrechtlich gemeinschaftliche Testamente ist die Qualifikation des Verbotes entscheidend Weitere Probleme ergeben sich in gemischtnationalen Fällen da die letztwilligen Verfügungen den deutschen Testator binden während der ausländische Testator ungebunden bleibt Carl Friedrich Nordmeier untersucht alle relevanten Rechtsnormen aus dem portugiesischsprachigen Raum vor dem Hintergrund dieser Problemstellung Er zeigt dabei auf dass im portugiesischen Recht eine eigene Kollisionsnorm für gemeinschaftliche Testamente existiert die in Brasilien unbekannt ist aber in den übrigen lusophonen Rechtsordnungen weiter gilt mit Ausnahme von Macau und Goa Denn letztere werfen als Teilrechtsordnungen Sonderprobleme auf Der Autor legt dar dass sich in gemischtnationalen Fällen durch selbständige Anknüpfung der Nichtigkeit in 2270 Abs 1 BGB sachgerechte Ergebnisse erzielen lassen und dass die Nichtigkeit nach ausländischem Recht als local data Berücksichtigung finden kann Die Ergebnisse seiner Untersuchung ermöglichen den konkreten Vorschlag einer besonderen universell anwendbaren Kollisionsnorm für gemeinschaftliche Testamente die angesichts der bevorstehenden Europäisierung des Internationalen Erbrechts erforderlich scheint □□□□□□□□ ,2009

**Die Teilnichtigkeit von Rechtsgeschäften im klassischen römischen Recht** Andreas Staffhorst, 2006 Auch im römischen Recht konnte von mehreren in einem Vertrag getroffenen Abreden oder von mehreren in einem Testament stehenden Verfügungen eine einzelne wegen Ungültigkeit Verstoßes gegen ein Verbotsgesetz oder dergleichen unwirksam sein In diesen und ähnlichen Fallgestaltungen stellt sich das Problem der Teilnichtigkeit Soll der ganze Vertrag bzw das ganze Testament unwirksam sein oder nur der jeweils betroffene Teil Die römischen Juristen haben keine abstrakte Begrifflichkeit von der Teilnichtigkeit der Rechtsgeschäfte entwickelt und doch gab es diese Figur im römischen Privatrecht heraus häufig Zahlreiche Quellen sind uns überliefert viele von ihnen sind in dieser Monographie erstmals in den Zusammenhang mit dem Thema gestellt Während das Bild im Vertragsrecht so bunt ist wie die Vielfalt der Verträge und Parteiinteressen lassen sich die Wurzeln der Teilnichtigkeit im Erbrecht historisch dogmatisch bis weit in die archaische Zeit zurückverfolgen Prozessuale Hindernisse für die Durchsetzung teilnichtiger Geschäfte kannte das römische Recht nicht **Karlsruher juristische**

**Bibliographie** ,2003 Bürgerliches Gesetzbuch: Einleitung. Allgemeiner Teil. paragraphs 1-240 Germany (West)., 1967

**Katalog des Schrifttums über den Donauraum: Allgemeiner Teil und Jugoslawien** Niedersächsische Landesbibliothek, Ksenija Grossheide, 1987 **Regelungsgehalt des Maßregelungsverbot gem. § 612a BGB** Frauke Wilken, 2001 Das gesetzliche Maßregelungsverbot des 612 a BGB das 1980 ins BGB eingefügt wurde hat zunächst ein juristisches Schattendasein geführt Später befaßten sich die arbeitsrechtliche Rechtsprechung und Literatur mit 612 a BGB lediglich im Hinblick auf verschiedene Problemfelder etwa der Vorenthaltung streikbedingter Sonderzuwendungen oder der

streikbedingten Kürzung von Jahressonderzahlungen Durch diese gebietsbezogene Interpretation entstand ein diffuses Bild des gesetzlichen Maßregelungsverbots An einer umfassenden Klärung der Tatbestandsvoraussetzungen und Rechtsfolgen der Norm fehlte es bislang Diese Lücke wird nun durch diese Arbeit geschlossen Nach der Behandlung der Entstehungsgeschichte und Zielsetzung des § 612 a BGB im 1. Teil wird im 2. Teil der inhaltliche Regelungsgehalt des § 612 a BGB umfassend dargestellt Ein Schwerpunkt liegt dabei auf der Klärung des Rechtsbegriffs i. S. des § 612 a BGB Daneben macht Frauke Wilken deutlich da als subjektive Komponente auf Seiten des Arbeitgebers ein Sanktionierungsvorsatz für das Eingreifen des § 612 a BGB erforderlich ist Außerdem wird das Verhältnis des § 612 a BGB zum arbeitsrechtlichen Gleichbehandlungsgrundsatz und zu sonstigen besonderen Benachteiligungsverboten geklärt sowie die Darlegungs- und Beweislast innerhalb des § 612 a BGB erörtert Den so herausgearbeiteten Regelungsgehalt des § 612 a BGB wendet die Verfasserin dann im 3. Teil auf die Problemfelder konkret an Maßregelungskündigungen streikbedingte Sonderzuwendungen und die Kürzung von Jahressonderleistungen aufgrund berechtigter Fehlzeiten werden auf ihre Zulässigkeit im Hinblick auf das gesetzliche Maßregelungsverbot des § 612 a BGB untersucht

*Bibliotheca missionum: Bd. Grundlegender und allgemeiner Teil. 1936-1960* Robert Streit, 1964     *Bibliotheca missionum: Grundlegender und allgemeiner Teil. 1936-1960* Robert Streit, 1951     **Jahresbericht über die gesamte Urologie und ihre Grenzgebiete**, 1927     **Neue Publikationen Om Den Europæiske Union Modtaget Af Biblioteket** European Commission. Library, 1996     *Deutsche Nationalbibliographie und Bibliographie der im Ausland erschienenen deutschsprachigen Veröffentlichungen*, 1996-07

*Frankfurter allgemeiner Verlosungsanzeiger*, 1882     *Reichs-arbeitsblatt*, 1922     *Publicaciones recientes sobre la Unión Europea recibidas por la Biblioteca* Commission of the European Communities. Library (Brussels, Belgium), 1996

*Kolloidchemische Technologie* Raphael Eduard Liesegang, Rudolf Auerbach, E. Berliner, August Chwala, 1932

*Entscheidungen des Bundesgerichtshofes in Zivilsachen* Germany (West). Bundesgerichtshof, 1958     *Hand- und Lehrbuch der Staatswissenschaften* A. Arndt, 1903

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