

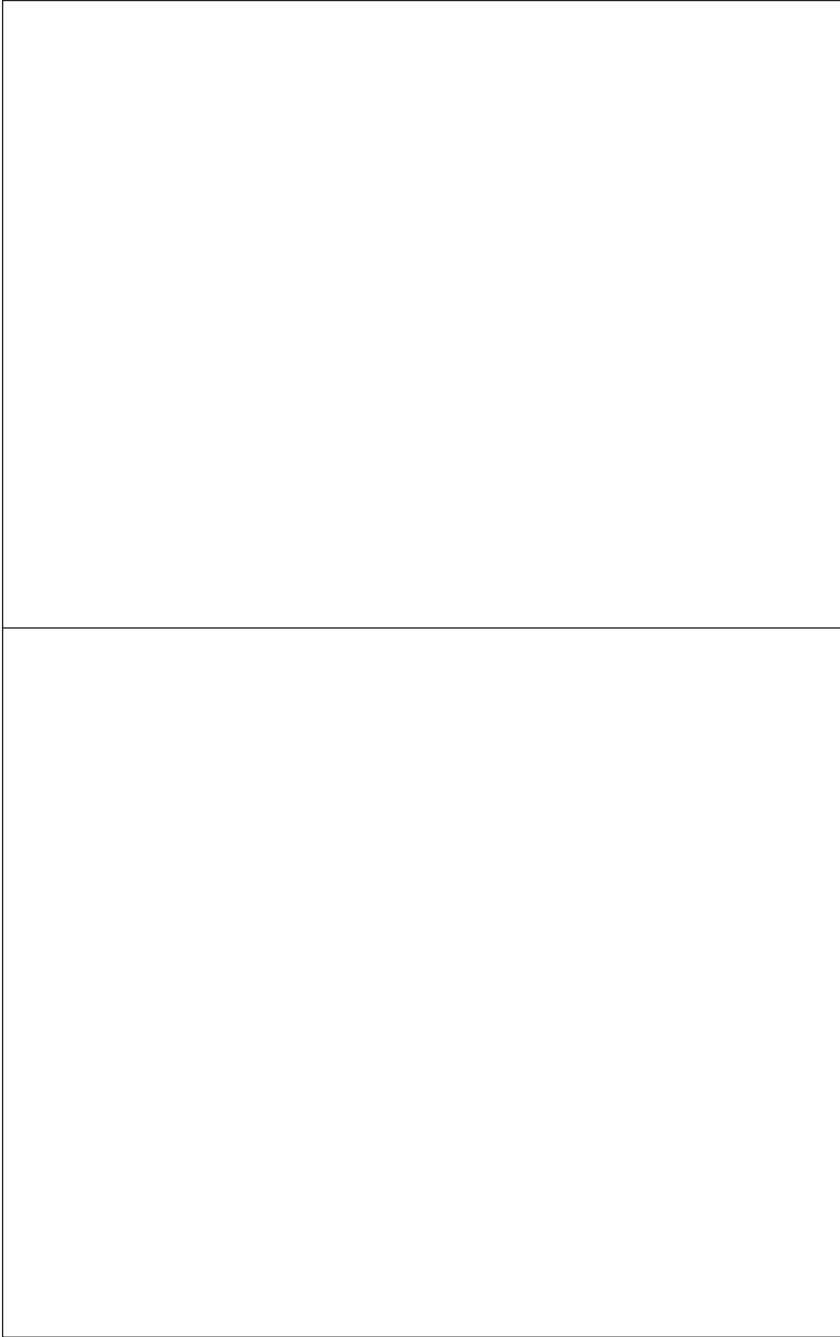
Katharina Steinbrück

Changing Consumer Law in the United Kingdom after Brexit?

A Study in Laws governing Consumer Credit and Unfair Terms in Consumer Contracts in the United Kingdom, Germany, Norway and Switzerland



Nomos



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Meinen Eltern und Martin

Preface

This dissertation is the result of research conducted at, *inter alia*, the University of Oslo (March-April 2018 and August-October 2018), the Institute of European and Comparative Law (IECL) at the University of Oxford (November 2018 - January 2019) and the Swiss Institute of Comparative Law (ISDC) in Lausanne (April-May 2019). Please note that I used the most recent editions of literature as of the time of my research at the respective facilities. I am thankful to my supervisor Prof. Gerhard Dannemann without whose support these research stays would not have been possible. I would like to thank my supervisor at the University of Oslo, Prof. Kåre Lilleholt, as well as Prof. Mads Andenæs, Prof. Finn Arnesen, Prof. Hans Petter Graver, Prof. Ola Mestad and Ms. Eli Knotten for their support regarding my research on Norwegian law and the European Economic Area as well as Prof. Tanja Jørgensen for her help with respect to Norwegian consumer credit regulation. Furthermore, I thank Prof. Birke Häcker, Prof. Ulf Bernitz, Prof. John Cartwright, Prof. Stephen Weatherill, Prof. Simon Whittaker and Mrs. Jenny Dix for their support at the IECL during my research stay at the University of Oxford, the staff of the ISDC in Lausanne for their support regarding my research on Swiss law and Ms. Corinna Radke for her support at the Centre for British Studies at the Humboldt-University of Berlin. Moreover, I thank the Friedrich-Naumann-Foundation for Freedom for their support by offering me the Genschel Scholarship for Freedom with funds from the German Federal Ministry of Education and Research to conduct my PhD research. Last but not least, I thank Prof. Stefan Grundmann, Prof. Hans-Wolfgang Micklitz as well as Ms. Hannah Besting and Mr. Fabian Bickel for their valuable input to this dissertation and my family for their enduring support during this exciting PhD journey.

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Abbreviations

AbzG	Deutsches Abzahlungsgesetz	German Hire-Purchase Act
ACER	European Agency for the Cooperation of Energy Regulators	
AGBG	Deutsches Gesetz zur Regelung des Rechts der Allgemeinen Geschäftsbedingungen	German Law of General Terms and Conditions
AJP	Aktuelle Juristische Praxis	
APR	Annual Percentage Rate	
AVB	Allgemeine Versicherungsbedingungen	General Terms and Conditions in insurance contracts
BaFin	Bundesanstalt für Finanzdienstleistungsaufsicht	German Federal Financial Supervisory Authority
BeckRS	beck-online.Rechtsprechung	
BGB	Deutsches Bürgerliches Gesetzbuch	German Civil Code
BGBI.	Deutsches Bundesgesetzblatt	German Federal Gazette
BKR	Zeitschrift für Bank- und Kapitalmarktrecht	
CCA	Consumer Credit Act	
CCD 1986	Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit	
CCD 2008	Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC	
CHF	Swiss Franc (Currency)	
CJEU	Court of Justice of the European Union (term used for cases from 2009 onward)	
CMA	Competition and Markets Authority	
CONC	Consumer Credit Sourcebook	
CPC	Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004	

Abbreviations

CRA 2015	Consumer Rights Act 2015	
EC	European Community	
ECJ	European Court of Justice (term used for cases until 2009)	
EEA	European Economic Area	
EEAA	Agreement on the European Economic Area	
EEC	European Economic Community	
EFTA	European Free Trade Association	
EGBGB	Einführungsgesetz zum Bürgerlichen Gesetzbuch	Introductory Act to the German Civil Code
ELKN	elklagenemnda	Norwegian Electricity Appeals Tribunal
ESA	EFTA Surveillance Authority	
EU	European Union	
EUR	Euro (Currency)	
FCA	Financial Conduct Authority	
FinDAG	Deutsches Gesetz über die Bundesanstalt für Finanzdienstleistungsaufsicht	German Law on the Federal Financial Supervisory Authority
FINKNB	finansklagenemnda bank	Norwegian Financial Appeals Tribunal for Banks
FINMA	Eidgenössische Finanzmarktaufsicht	Swiss Financial Market Supervisory Authority
FKU	forbrukerklagenemnda	Norwegian Consumer Appeals Tribunal
FOS	Financial Ombudsman Service	
FSA 2012	Financial Services Act 2012	
FSMA 2000	Financial Services and Markets Act 2000	
GBP	British Pound (Currency)	
GDP	Gross Domestic Product	
GG	Grundgesetz für die Bundesrepublik Deutschland	Basic Law for the Federal Republic of Germany
IKO	Schweizerische Informationsstelle für Konsumkredit	Swiss Information Agency for Consumer Credit
JCD	Joint Committee Decision	

JuS	Juristische Schulung	
JZ	Juristenzeitung	
KIG	Schweizerisches Konsumenteninformationsge- setz	Swiss Consumer Information Act
KG	Schweizerisches Bundesgesetz über Kartelle und andere Wett- bewerbsbeschränkungen	Swiss Federal Act on Cartels and other Restraints of Competition
KKG	Schweizerisches Konsumkre- ditgesetz	Swiss Consumer Credit Act
KWG	Deutsches Gesetz über das Kre- ditwesen	German Banking Act
LG	Landgericht	German District Court
LQR	Law Quarterly Review	
MLR	Modern Law Review	
NAO	The National Audit Office	
NATO	North Atlantic Treaty Organisation	
NJW	Neue Juristische Wochenschrift	
NOK	Norwegian Crown (Currency)	
OECD	Organisation for Economic Co-operation and Development	
OFT	Office of Fair Trading	
OLG	Oberlandesgericht	German Higher Regional Court
OR	Schweizerisches Obligationen- recht	Swiss Code of Obligations
SECO	Schweizerisches Staatssekreta- riat für Wirtschaft	Swiss State Secretariat for Eco- nomic Affairs
T&Cs	General Terms and Conditions	
TCA	The Trade and Cooperation Agreement between the European Union and European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ire- land, of the other part	
TEC	Treaty establishing the European Community	
TFEU	Treaty on the Functioning of the European Union	
UCTA 1977	Unfair Contract Terms Act 1977	

Abbreviations

UCTD	Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts	
UKlaG	Deutsches Gesetz über Unterlassungsklagen bei Verbraucherrechts- und anderen Verstößen	Law on injunctions in case of breaches of consumer law and other breaches
UNGCP	United Nations Guidelines on Consumer Protection	
UTCCRs 1999	Unfair Terms in Consumer Contracts Regulations 1999	
D-UWG	Deutsches Gesetz gegen den unlauteren Wettbewerb	German Act Against Unfair Competition
S-UWG	Schweizerisches Bundesgesetz gegen den unlauteren Wettbewerb	Swiss Unfair Commercial Practices Law
USD	US-Dollar (currency)	
VAG	Schweizerisches Versicherungsaufsichtsgesetz	Swiss Insurance Supervision Act
VKG	Deutsches Verbraucherkreditgesetz	German Consumer Credit Law
VSBG	Deutsches Gesetz über die alternative Streitbeilegung in Verbrauchersachen	German Law on Alternative Dispute Resolution in Consumer Matters
VuR	Verbraucher und Recht - Zeitschrift für Wirtschafts- und Verbraucherrecht	
WM	Wertpapier-Mitteilungen. Zeitschrift für Wirtschafts- und Bankrecht	
ZAG	Deutsches Gesetz über die Beaufsichtigung von Zahlungsdiensten	German Law on the Supervision of Payment Service Providers
ZBJV	Zeitschrift des Bernischen Juristenvereins	
ZEK	Schweizerische Zentralstelle für Kreditinformation	Swiss Central Agency for Credit Information
ZGB	Schweizerisches Zivilgesetzbuch	Swiss Civil Code
ZIP	Zeitschrift für Wirtschaftsrecht	
D-ZPO	Deutsche Zivilprozessordnung	German Code of Civil Procedure

Abbreviations

S-ZPO	Schweizerische Zivilprozess- ordnung	Swiss Code of Civil Procedure
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