Diagonal competence conflicts between European competition law and national regulation—a conflict of laws reconstruction of the dispute on book price fixing

Abstract

This contribution attempts to reconstruct methodologically, with the help of conflict of laws tools, the dispute between European competition law and national cultural policy in the case of book price fixing in the German language area. On the basis of the cross-section clause for culture, which is interpreted as a renvoi to national cultural policy, a wide interpretation of the exemption in Article 81(3) EC Treaty is advocated, in order to cope with the double function of books as economic and cultural goods. Since the private price fixing scheme applied in Germany and Austria may be considered as a legitimate implementation of national cultural policy, it is submitted that the legal scrutiny under competition law should, as regards the allocation of burden of proof and the reduction of the Commission's scope for discretion, be assimilated to the doctrinal system of the basic freedoms.

In book: A Companion to European Union Law and International Law, Chapter: 4, Publisher: Wiley-Blackwell, Editors: Dennis Patterson and Anna Södersten, pp.42-61. Cite this publication. Katja S. Ziegler. orders, for example the relationship between international law and the law of the sea? In other words, is the question of the relationship only one about the fragmentation of international law? Are the rules of interaction between the legal orders just 'technical' conflict rules in this context? of norms and conflicts between courts and tribunals about jurisdiction and substantive. interpretation of rules between EU law and general international law. ("fragmentation"). Fourth, general international law benefits from the more evolved, more.