

Inhaltsverzeichnis

Vorwort	V
How to use the glossaries	VII
Autorenverzeichnis	XXIII
I.A Constitutional Law in the United States	1
1. Interpretation	1
1.1 Originalism	1
1.2 Living Constitution	1
1.3 Methodological Conclusions	2
2. Separation of Powers	2
2.1 The Legislative Process	2
2.1.1 Bicameralism	2
2.1.2 Presentment	3
2.2 Executive Power	4
2.2.1 The Relationship Between Executive and Legislative Power – Executive Orders	4
2.2.2 The Relationship Between Executive and Legislative Power – Impoundment	5
2.2.3 Presidential Appointments	5
2.3 The Judiciary	6
2.3.1 Terms of Appointment of the Federal Judiciary	6
2.3.2 Judicial Review	6
3. Federalism	7
3.1 Federalism and Congress	7
3.1.1 The Limits of Congressional Powers	7
3.1.2 Preemption	8
3.2 Federalism and the Executive	9
3.3 Federalism and the Judiciary	9
4. Constitutional Rights	9
4.1 The First Amendment	10
4.1.1 Freedom of Speech	10
4.1.2 The Establishment Clause	11
4.2 The Second Amendment	11
4.3 The Fourth Amendment	13
4.3.1 Unreasonable Searches and Seizures	13
4.3.2 Probable Cause	13
4.3.3 Police Good Faith	14
4.4 The Fifth Amendment	14
4.4.1 Double Jeopardy	14
4.4.2 Right to Remain Silent	15
4.4.3 Due Process of Law	15
I.B The British Constitution	17
1. The Executive	18
2. The Legislature	18
3. The Judiciary	21
4. Human Rights	22
I.C German Constitutional Law	25
1. Historical background	25
2. The Basic Law and the constitutional situation in the <i>Länder</i> (states) – an overview	27

3.	The rule of law principle (<i>Rechtsstaatsprinzip</i>)	28
3.1	Guarantees of fundamental rights	28
3.2	Legal reservation for a restriction of fundamental rights; principle of proportionality.....	29
3.3	Statutory supremacy; recourse to the courts of law.....	29
4.	The principle of democracy	30
4.1	Representative democracy	30
4.2	Responsibilities of the <i>Bundestag</i> ; democratic legitimacy; theory of materiality (<i>Wesentlichkeitstheorie</i>).....	31
4.3	Elections to the <i>Bundestag</i> ; personalised proportional representation and the “five per cent hurdle”	31
4.4	Fundamental rights of communication; loss of fundamental rights; status of political parties	32
4.5	The Federal President and the Federal Government	33
5.	The principle of federalism.....	34
5.1	The role of the <i>Bundesrat</i>	34
5.2	Division of powers between the federation and the <i>Länder</i>	35
5.3	Municipal autonomy	35
6.	Social state principle	36
7.	Open statehood	36
I.D	The Constitution of Austria	38
1.	Historical Background and Structural Features.....	38
1.1	Historical Background	38
1.2	Engineering Constitutional Changes	39
1.3	Principles of the Constitution	39
2.	The Federal System	40
3.	Parliaments	41
4.	The Federal President	43
5.	The Executive Branch of Government.....	44
6.	Judiciary	46
7.	Fundamental and Human Rights	47
	Constitutional Law Glossary	49
	Glossar Verfassungsrecht	55
II.A	Administrative Law in the United States	61
1.	Administrative Law and the Constitution	61
1.1	Separation of Powers.....	61
1.1.1	Delegation Doctrine	62
1.1.2	Functional Appraisal of the Delegation Doctrine	62
1.2	Federalism	62
2.	Rulemaking	63
2.1	Types of Rulemaking	63
2.2	Formal Rulemaking	63
2.2.1	Initiation of Rulemaking.....	63
2.2.2	The Proposed Rule.....	64
2.2.3	Fact-finding and Formal Rulemaking.....	64
2.2.4	Initial Decision	64
2.2.5	Review	64
2.2.6	Problems in Formal Rulemaking.....	64
2.3	Informal Rulemaking.....	65
2.3.1	Initiation of Rulemaking.....	65

2.3.2 Proposed Rule.....	65
2.3.3 Notice and Comment.....	65
2.3.4 Final Rule and Review	65
2.3.5 Problems in informal rulemaking.....	66
2.4 Hybrid Rulemaking.....	66
2.5 Deference	66
3. Enforcement (Adjudication)	67
3.1 Formal Adjudication.....	67
3.1.1 The Functions of Administrative Law Judges.....	67
3.1.2 Administrative Hearing Process.....	67
3.1.3 Decision	68
3.1.4 Review	68
3.1.5 Precedential Value of Formal Administrative Law Adjudications	69
3.2 Informal Adjudication	69
3.2.1 Origin of Informal Adjudication.....	69
3.2.2 Scope of Informal Adjudication	69
3.2.3 Hearing in Informal Adjudication.....	70
3.2.4 Decision in Informal Adjudication.....	70
3.2.5 Review of Informal Adjudication	70
3.2.6 Deference and Informal Adjudication	70
II.B Introduction to Administrative Law in England and Wales	71
1. General.....	71
1.1 Scope of administrative law.....	71
1.2 Characteristics and definition of administrative law	71
2. Constitutional framework.....	72
2.1 No written constitution	72
2.2 Jurisprudence as a source of law	72
2.3 The rule of law.....	72
2.3.1 Principle of legality	72
2.3.2 Restriction of discretionary powers	73
2.3.3 Fairness of administrative action	73
3. Essential features and principles of administrative law.....	73
3.1 The central role of courts	73
3.2 The <i>ultra vires</i> principle.....	74
3.3 Sources of administrative power.....	74
3.4 No general obligation to state reasons for a decision.....	74
4. Discretionary power.....	75
4.1 Administrative powers not to be abused.....	75
4.2 Unreasonableness.....	75
4.3 The principle of proportionality.....	75
5. Principles of natural justice and administrative law	75
5.1 The principle of natural justice in general, and its effect	75
5.2 No man may be judge in his own case – no biased decision	76
5.3 <i>Audi alteram partem</i> – the right to be heard	76
6. Judicial review.....	77
6.1 General.....	77
6.2 Public law (prerogative) remedies.....	77
6.2.1 General	77
6.2.2 Quashing order (formerly <i>certiorari</i>)	77
6.2.3 Prohibiting order (formerly prohibition)	77

6.2.4 Mandatory order (formerly <i>mandamus</i>).....	77
6.3 Procedure – review not appeal.....	78
6.4 Limits of judicial review.....	78
7. Statutory tribunals	78
II.C German Administrative Law	79
1. Historical background.....	79
2. Administrative law under the influence of the Basic Law for the Federal Republic of Germany (<i>Grundgesetz</i> – <i>GG</i>) and European Union law	80
2.1 Administrative law as “specified constitutional law”	80
2.2 Administrative law overruled by European Union requirements.....	81
3. General administrative law.....	81
3.1 Distinction between private and public law, administrative courts	81
3.2 Administrative structure.....	82
3.3 Legal basis of administrative law	83
3.4 Administrative acts and other instruments of the administration	83
3.5 The administration’s freedom of manoeuvre	85
3.6 Administrative proceedings.....	86
4. Special administrative law	87
4.1 Police and public order law	87
4.2 Building law	87
4.3 Environmental law.....	87
4.4 Administrative business law	88
5. Protection of rights	88
5.1 Protection of rights within the administration	88
5.2 Adjudication of administrative courts	89
5.3 Types of court actions and special prerequisites for a judgment on the merits	90
5.4 Provisional judicial relief.....	91
II.D Administrative Law in Austria	93
1. General Principles of Administrative Law.....	93
2. Administrative Procedure and Judicial Review	95
3. Selected Statutory Sources of Administrative Law	98
3.1 Overview	98
3.2 Public security administration.....	98
3.3 Business (administrative) law	99
3.4 Education and social law.....	100
3.5 Data protection law	101
3.6 Planning law, construction law, transfer of land law	101
3.7 Environmental law.....	101
3.8 Traffic law	102
Administrative Law & Administrative Procedure Glossary.....	103
Glossar Verwaltungsrecht	107
III.A Criminal Law in the United States	113
1. Introduction	113
2. Federal and State Criminal Jurisdiction.....	113
3. Preemption	114
4. Model Penal Code	114

5. Necessary Elements of a Crime	115
6. Types of Crimes	116
6.1 Crimes Against the Person	116
6.1.1 Murder/Manslaughter.....	116
6.1.2 Assault/Battery.....	117
6.1.3 Rape	117
6.1.4 Kidnapping.....	118
6.2 Crimes Against Property	118
6.2.1 Larceny.....	118
6.2.2 Robbery.....	118
6.2.3 Embezzlement	118
6.2.4 False Pretenses.....	119
6.2.5 Burglary.....	119
6.2.6 Arson.....	119
6.3 Crimes Against the Country	119
6.3.1 Espionage	119
6.3.2 Treason	120
6.4 Crimes Against Community Standards/Morals	120
6.5 Regulatory Enforcement Crimes.....	121
6.6 Inchoate Crimes	121
6.6.1 Attempts.....	121
6.6.2 Solicitations	122
6.6.3 Conspiracy.....	122
7. Classifications of Crimes	123
8. Defenses to Crimes	123
8.1 Failure of Proof of an Essential Element.....	123
8.2 Justification Defenses.....	124
8.2.1 Self-defense/ Defense of Another/ Defense of Property	124
8.2.2 Defense of Necessity	125
8.2.3 Other Justification Defenses.....	125
8.3 Excuse Defenses.....	125
8.3.1 Insanity.....	125
8.3.2 Intoxication	126
8.3.3 Minority	126
8.3.4 Duress.....	126
8.3.5 Entrapment	127
8.4 Statutes of Limitations.....	127
9. Conclusion	127
III.B English Criminal Law.....	128
1. Introduction	128
2. Sources of Criminal Law.....	128
3. Elements of Criminal Liability.....	128
4. Criminal Legal Capacity	129
5. The Burden of Proof and the Standard of Proof	130
6. Principals and Accessories	131
7. Theft and Theft-Related Offences.....	131
7.1 Theft.....	131
7.2 Robbery.....	132
7.3 Burglary.....	132
7.4 Fraud.....	132

8. Assaults and Offences of Violence	133
9. Defences	133
9.1 Intoxication: Voluntary & Involuntary	133
10. Other General Defences.....	134
11. Self-Defence.....	134
12. Consent	135
13. Inchoate Offences	136
14. Voluntary Manslaughter.....	136
14.1 Diminished Responsibility.....	136
14.2 Loss of Control	137
14.3 Suicide Pacts	137
15. Involuntary Manslaughter.....	137
16. Public Order Offences	138
III.C Criminal Law in Germany	139
1. Sources of law; bases	139
2. The General Part of the German Criminal Code.....	140
2.1 Wilful intent/negligence	140
2.2 Attempt and completion.....	141
2.3 Principal offenders and accomplices.....	141
2.4 Self-defence and necessity as a justification	141
2.5 Sanctions	142
2.6 Confiscation and seizure	143
2.7 Statutory limitation of prosecution	143
3. The Special Part of the German Criminal Code	143
4. Juvenile Criminal Law	145
III.D An Outline of Austrian Criminal Law.....	147
Introduction.....	147
1. Case resolution scheme	148
1.1 Geographical applicability: Austria.....	148
1.1.1 Basic rule	148
1.1.2 Extension of criminal liability for certain offences committed abroad	148
1.2 Personal applicability	149
1.3 Aspects of time	150
1.3.1 Criminal laws must have no retroactive effect.....	150
1.3.2 The statute of limitation.....	151
1.4 No punishment without law (<i>nulla poena sine lege</i>)	151
1.5 No punishment without guilt (<i>nulla poena sine culpa</i>).....	152
1.6 Wilful intent and negligence.....	152
1.6.1 Wilful conduct.....	152
1.6.2 Negligent conduct	152
1.6.3 Commission by omission.....	153
1.7 Types of offenders.....	153
1.8 Statutory grounds for exemption from punishment (<i>Strafausschließungsgründe</i>) or withdrawal of punishment (<i>Strafaufhebungsgründe</i>).....	153
1.8.1 Attempt and withdrawal from attempt.....	153
1.9 Justifications	154
1.9.1 Self-defence.....	154
1.9.2 Consent	154
1.9.3 Right to report offences.....	154

1.10 Ignorance of the law	154
1.11 Excuses	154
1.11.1 Necessity.....	154
1.11.2 Criminal capacity.....	155
1.11.3 Slow maturity	155
1.12 Active regret.....	155
2. The system of penalties and measures of rehabilitation and prevention.....	155
2.1 Penalties, forfeiture and preventive measures	155
2.1.1 Fines and prison sentences	155
2.1.2 Calculation of fines and prison sentences	156
2.2 Suspension of prison sentence on probation and conditional release from prison on probation	157
2.2.1 Suspension of prison sentence on probation.....	157
2.2.2 Release from prison on probation	157
2.2.3 Electronically monitored house arrest	158
2.3 Financial consequences of a conviction	158
2.3.1 Judgment for damages	158
2.3.2 Confiscation and seizure	158
2.3.3 Forfeiture.....	158
2.4 Alternative methods of responding to punishable behaviour	159
2.4.1 Discontinuation of proceedings due to the insignificance of the deed.....	159
2.4.2 No prosecution (<i>Diversion</i>)	159
2.5 Preventative measures	159
IV.A Criminal Procedure in the United States	161
1. Introduction	161
2. Preliminary Considerations.....	161
3. The Stages of Criminal Procedure	163
3.1 Stage 1: Investigation, Arrest, Detention	163
3.1.1 Arrest and Detention	163
3.1.2 Investigation: Searches and Seizures	164
3.1.3 Consequences for Violations of Rights at Stage 1	164
3.1.4 Prosecutorial Discretion	165
3.2 Stage 2: Prosecution and Trial	165
3.2.1 Bail	165
3.2.2 Pretrial Procedures	165
3.2.3 The Criminal Trial	166
3.2.4 Right to be Present and Confront Evidence and Witnesses	167
3.2.5 Right Against Self-Incrimination	167
3.2.6 Organization of the Trial.....	168
3.2.7 Jury Deliberations and Verdict	168
3.3 Stage 3: Post-Conviction and Sentencing.....	169
3.3.1 General Considerations.....	169
3.3.2 Types of Sentences	170
3.3.3 Capital Punishment	170
3.3.4 Incarceration.....	170
3.3.5 Probation.....	171
3.3.6 Intermediate Sanctions.....	171
3.3.7 Fines.....	171
3.4 Stage 4: Appeal	172
3.4.1 Right to Appeal.....	172

3.4.2 Right to An Attorney On Appeal	173
3.5 The Concept of Double Jeopardy.....	173
3.6 Application and Scope of Double Jeopardy	173
4. Conclusion	174
IV.B Criminal Procedure in England and Wales.....	175
1. Composition of the Magistrates' Court	178
2. Procedure in the Magistrates' Court	178
3. Statistics.....	179
4. Trial at the Crown Court	179
4.1 Offences Taken Into Consideration ("TICs")	182
4.2 Sentencing Generally	182
5. Appeals	183
5.1 From the Magistrates' Court (including a Youth Court) to the Crown Court	183
5.2 From the Magistrates' Court to the High Court by way of Case Stated	183
5.3 Judicial Review by Divisional Court of Magistrates' Court Decision	183
5.4 From the Crown Court to the Court of Appeal, Criminal Division	183
6. Prosecution Appeals	184
6.1 Applications for a Retrial	184
6.2 The Criminal Case Review Commission	185
6.3 Appeals to the Supreme Court	185
6.4 Trials Without a Jury	185
6.5 Solicitors, Barristers and Judges.....	185
6.6 Deferred Prosecution Agreements (DPAs).....	186
6.7 Section 73 Agreements: SOCPA 2005	187
6.8 Advance Sentence Indications	187
6.9 Newton Hearings (<i>R v Newton</i> , 1983)	187
6.10 The Victim Surcharge	187
6.11 The Criminal Courts Charge	188
IV.C Criminal Procedure Law in Germany.....	189
1. Principles; sources of law.....	189
2. The different stages of criminal proceedings	190
2.1 Preliminary investigation	190
2.2 Interlocutory proceedings	192
2.3 Main proceedings (Sections 213 to 295 <i>StPO</i>).....	193
2.4 Appellate proceedings	195
2.5 Re-opening of proceedings (Sections 359 to 373a <i>StPO</i>).....	196
2.6 Involvement of the person harmed in the proceedings (Sections 374 to 406h <i>StPO</i>).....	196
2.7 Special types of proceedings.....	197
2.8 Enforcement of punishment	197
IV.D An Outline of Austrian Criminal Procedure.....	198
1. Introduction	198
2. The Austrian Code of Criminal Procedure	198
2.1 General aspects; procedural principles.....	198
3. Preliminary investigations	199
3.1 Agencies with responsibility for preliminary investigations.....	199
3.2 Measures of investigation	199
3.3 The suspect; the person charged.....	200

3.4	Victims and civil claimants	200
3.5	The court's role in preliminary investigations	201
3.5.1	Decision on the admissibility of investigation measures and judicial taking of evidence	201
3.5.2	Objection on the grounds of infringement of a right; judicial protection of rights in preliminary investigations	202
3.5.3	Supervision of discontinuation of preliminary investigation and length of proceedings	203
3.5.4	Appeals against decisions of the court responsible for remand, detention and the protection of rights (<i>Haft- und Rechtsschutzgericht</i>)	203
3.6	Closure of preliminary investigation proceedings	204
4.	Main proceedings (trial)	204
4.1	Types of courts and jurisdictions	204
4.1.1	District courts	204
4.1.2	Regional courts	204
4.2	The course of the main proceedings (trial)	205
4.2.1	Institution of the main proceedings	205
4.2.2	Principles of the trial	205
4.2.3	Parties to criminal proceedings	206
4.2.4	End of trial; pronouncement of sentence	207
5.	Appellate proceedings	207
5.1	Two-stage proceedings	207
5.2	Types of appeals	207
5.2.1	Appeals on the grounds of nullity	207
5.2.2	Appeals based on the pronouncement of guilt, the sentence or the award to the civil claimant(s)	208
6.	International cooperation in criminal matters	209
6.1	General aspects	209
6.2	Major sources of law related to cross-border cooperation	209
6.2.1	The General Act on Extradition and Judicial Assistance (<i>Allgemeines Auslieferungs- und Rechtshilfegesetz – ARHG</i>)	209
6.2.2	Multilateral conventions of the Council of Europe	210
6.2.3	Sources of European Union law regarding cooperation in criminal matters	210
6.2.4	Other sources of EU law on cooperation in criminal matters	211
7.	European Convention for the Protection of Human Rights and Fundamental Freedoms	211
	Criminal Law & Criminal Procedure Law Glossary	212
	Glossar Strafrecht und Strafprozessrecht	230
	V.A Insolvency Proceedings in the United States	239
1.	Introduction	239
2.	Types of Bankruptcy Proceedings	239
2.1	Bankruptcy Code Chapters	239
2.2	Chapter 7	239
2.3	Chapter 9	239
2.4	Chapter 11	240
2.5	Chapter 12 and Chapter 13	240
2.6	Chapter 15	241
2.7	Involuntary Bankruptcies	241
3.	Commencement and Management of Bankruptcy Case	241
3.1	Procedure	241

3.2	Assets of Estate	242
3.2.1	Exemptions.....	242
3.2.2	Abandonment.....	242
3.3	Automatic Stay	243
3.3.1	Relief from Stay	243
4.	Administration of Estate	244
4.1	Who is in Control	244
4.1.1	Appointment of Trustees and Examiners in Chapter 11	244
4.2	Financing.....	245
4.2.1	Post-Petition Borrowing.....	245
4.2.2	Use of Cash Collateral	245
4.3	Leases and Contracts.....	246
4.4	Asset Sales.....	246
5.	Resolution of Proceeding	247
5.1	Plans of Reorganization	247
5.1.1	Chapter 11	247
5.1.2	Chapter 9	248
5.1.3	Chapters 12 and 13	248
5.2	Chapter 7	248
5.3	Conversion or Dismissal	248
5.4	Discharge.....	249
6.	Claims Administration.....	250
7.	Litigation in the Bankruptcy Court.....	251
7.1	Dischargeability Litigation.....	251
7.2	Avoidance Actions	251
7.2.1	Preferential Transfers.....	251
7.2.2	Fraudulent Transfers	252
7.2.3	Unauthorized Post-Petition Transfers	252
7.3	Other Litigation	253
7.4	Bankruptcy Court's Limited Jurisdiction.....	253
8.	Alternative Insolvency Proceedings under State and Federal Law.....	254
8.1	Receivership.....	254
8.2	Assignment for Benefit of Creditors.....	255
V.B	Insolvency Law in the United Kingdom.....	256
1.	Introduction	256
1.1	Insolvency, bankruptcy and liquidation.....	256
1.2	Historical background	256
1.3	Important legislation and recent reforms.....	257
1.4	Insolvency practitioners as the dominant actors	258
2.	Personal insolvency	258
2.1	General.....	258
2.2	Alternatives to bankruptcy.....	259
3.	Corporate insolvency in the United Kingdom (England & Wales)	260
3.1	General.....	260
3.2	Meaning of insolvency.....	261
3.3	The formal English law insolvency procedures available to companies (not including partnerships).....	262
3.3.1	Compulsory liquidation (Winding-up by the court)	262
3.3.2	Creditors' and members' voluntary liquidation	262
3.3.3	Administrative receivership	263

3.3.4 Administration.....	263
3.3.5 Company voluntary arrangement (“CVA”).....	264
3.3.6 Schemes of arrangement (“Schemes”).....	264
4. Summary	265
V.C German Insolvency Law	266
1. Introduction	266
2. Structure of insolvency proceedings	266
3. Normal insolvency proceedings.....	267
3.1 Applicability	267
3.2 Procedure.....	267
3.2.1 Grounds for opening insolvency proceedings	268
3.2.2 Preliminary insolvency proceedings.....	270
3.2.3 Opening of insolvency proceedings.....	270
3.2.4 Insolvency plan	271
3.2.5 Debtor-in-possession proceedings	272
4. Consumer insolvency proceedings.....	272
5. Relief from residual debt.....	273
5.1 Course of the proceedings.....	274
5.2 Effect of relief from residual debt	274
V.D Insolvency Law in Austria	276
1. Legal basis.....	276
2. Types of proceedings.....	276
3. Parties in insolvency proceedings.....	277
3.1 The court	277
3.2 The insolvency administrator	278
3.3 The creditors’ committee.....	278
3.4 The creditors’ meeting.....	279
4. Legal status of the debtor	279
5. Legal status of the creditor	280
5.1 The ordinary insolvency creditor.....	280
5.2 The subordinate insolvency creditor.....	280
5.3 Creditors entitled to separation and recovery (<i>Aussonderungsgläubiger</i>); preferred creditors (<i>Absonderungsgläubiger</i>).....	280
5.4 Creditors whose claims have arisen only after the insolvency proceedings were opened (<i>Massegläubiger</i>).....	281
6. Substantive insolvency law	281
6.1 Effects of proceedings on agreements on non-recurring obligations (<i>Zielschuldverhältnis</i>) that have not been fully performed	281
6.2 Effects on continuing obligations.....	281
6.3 Offsetting	282
6.4 Avoidance of detrimental acts	282
7. International insolvency law.....	282
Insolvency Law Glossary	283
Glossar Insolvenzrecht.....	291
VI.A Antitrust Law in the United States	295
1. U.S. Antitrust Framework and Background	295
1.1 Sources and Enforcement.....	295

1.1.1 Enforcement Mechanisms and Remedies	296
1.2 Federal Statutory History.....	297
1.3 State Statutory History	298
1.4 Prohibited Practices	299
1.4.1 Standards of Review of Practices	299
1.4.2 Specific Practices	299
2. International Implications.....	302
2.1 U.S. Antitrust Law Reach Abroad	302
2.1.1 Foreign Trade Antitrust Improvement Act (FTAIA)	302
2.1.2 Use of Criminal Sanctions Against Foreign Citizens.....	302
2.2 Antitrust Leniency Programs.....	302
2.2.1 United States Corporate Leniency Program	302
2.2.2 Conditions of Leniency	303
2.2.3 EU Leniency Program	303
3. Current Antitrust News and Litigation	304
3.1 Antitrust in the Pharmaceutical Industry	304
3.1.1 Pay-For-Delay.....	304
3.2 Antitrust in the Cable and Telecommunications Industries	304
3.3 Antitrust in the New Technology Industry.....	305
3.4 Antitrust, Patents and Other Technology	306
3.4.1 Patents and Monopoly	306
3.4.2 Essential Facilities Doctrine	306
3.4.3 Copyright Misuse	306
VI.B Competition Law in the United Kingdom.....	308
1. Overview of public enforcement of UK competition law	308
1.1 Relevant legislation and institutions.....	308
1.2 Inter-relationship with European law	309
2. Prohibition of anti-competitive agreements	310
2.1 Overview	310
2.2 Prohibited agreements and restrictions.....	310
2.3 Exemption	312
3. Prohibition of abuse of a dominant position	312
3.1 Overview	312
3.2 Dominance.....	313
3.3 Abuse.....	313
4. Chapter I and Chapter II prohibitions: powers of investigation and consequences of infringement	314
4.1 Powers of investigation.....	314
4.2 Consequences of infringement.....	314
5. The cartel offence.....	315
6. Market studies and investigations.....	316
6.1 Market studies	316
6.2 Market investigations.....	317
7. Merger control.....	317
7.1 Overview	317
7.2 Merger filing thresholds	317
7.3 Merger review procedure.....	318
VI.C Antitrust Law in Germany.....	319
1. Introduction	319

2. Prohibition on agreements restricting competition (<i>Verbot wettbewerbsbeschränkender Vereinbarungen</i>) (Section 1 <i>GWB</i>)	319
2.1 The prohibition	319
2.2 Exemption from the prohibition	320
3. Monitoring of unfair practices by the Cartel Office (Sections 18 to 21 <i>GWB</i>)	321
4. Merger control (<i>Zusammenschlusskontrolle</i>) (Sections 35 <i>et seq. GWB</i>)	322
4.1 Scope of application	322
4.2 Concentrations covered by the <i>GWB</i>	323
4.3 Definition of turnover	324
4.4 Prohibition of mergers (significant impediment to effective competition)	324
4.5 Merger control procedure	325
4.6 Prohibition of putting a concentration into effect during the merger control procedure	325
4.7 Notification that a concentration has been put into effect	325
5. Relationship between German and European antitrust law	326
5.1 Prohibition of agreements restricting competition	326
5.2 Monitoring of unfair practices	326
5.3 Merger control	326
6. Sanctions for breach of antitrust law	326
7. Investigations by German cartel authorities	327
VI.D Antitrust Law in Austria	328
1. Relevant legislation	328
2. The amendment of 2013	328
3. Relevant institutions	329
3.1 The Federal Competition Agency (BWB)	329
3.2 The Federal Antitrust Prosecutor	330
3.3 The Cartel Court	330
3.4 The regulators	330
3.5 The Competition Commission	331
3.6 Management and Labor	331
4. Cartels	331
4.1 Prohibition of cartels	331
4.2 Legal and practical consequences of an infringement	332
4.3 Exemption from the prohibition of cartels	332
4.4 The leniency program	333
5. Abuse of a dominant position	334
5.1 Definition of dominant position	334
5.2 Practices that constitute abuse	334
6. Investigation and procedural steps	335
7. Mergers	336
7.1 The notion of a concentration	336
7.2 Notification thresholds	336
7.3 Calculation of turnover	337
7.4 Obligation to suspend implementation	337
7.5 Procedure and substantive test	337
8. Fines	338
Antitrust Law Glossary	340
Glossar Kartellrecht	346