Digitalization and European Company and Market Law

Test Case:
Data Quality and the Use of AI in Company Relations

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Digitalization and European Company and Market Law

Multitude of Acts, Boom Sphere for European Legislation

• Status Quo and Upcoming Legislation (*pending*)
  • A Word on Company and Market Law – Link ("Voice and Exit")
  • Primarily Market Related
    • General Data Protection Regulation (EU) 2016/679
    • Product Liability Regulation 1985/374/EEC -> Update on Digital Products (EU Commission Public Consultation 2021/22)
    • EU Data Act (Access + IP Law) (EU Commission Proposal 2/2022)

• Primarily Company Law Related (with Platform Organization)
  • *EU Artificial Intelligence (AI) Act (proposal 4/2021)*
  • EU Digital Markets Act (final vote in the European Parliament on the 5th of July 2022) + Digital Services Act (same)
  • Others, for instance online creation of Ltd.s (Companies’ Register regulation)
AI Compliance in Company Law

Data Quality and the Use of AI in Company Relations

• **Status Quo: Company Relations – namely the Principal**

  • **Company Law: German, European, Global**
    • Legal Development
    • – Digitalization, Capital Market Law, Company Relations (Principal)
    • Literature

  • **Company Law: Managers and Principals**
    • The Model and its Explanation
    • The Reality of AI
    • Examples
AI Compliance in Company Law

- **Some Rules in the AI Act**
  - Art. 10 AIA: Governance of *Untrained Data*
  - Art. 13/14 AIA: *Transparency* of AI Models and human surveillance
  - Art. 15: *Precision*, Robustness, *Cyber Security*
  - Art. 8/17 AIA: Risk and *Quality Management*

- **Relevance of the Rules**
  - Directly: For High Risk Areas (Annex III of AI Act)
  - Indirectly: → as a general model (transposition, case law) → *legislation still pending*
AI Compliance in Company Law

• Status Quo and the Use of AI
  
  • Focus of AI Literature on Use by Management
  
  • AI Use by Shareholders, potentially Stakeholders
    • AI as „Empowerment“
    • Core Desideratum in the Whole of the Law of Listed Companies („Household Investment Gap“)
    • Theoretically: Creating Links between Untrained Data and Trained Data (Models, Algorithms) + for the Core Player in Economy

• Core Research Desiderata Arising from Status Quo (next slide)
AI Compliance in Company Law

• Status Quo and the Use of AI (last slide)

• Core Research Desiderata Arising from Status Quo

  • Empowerment via AI for Shareholders („Voice“)
    → Shareholder Fora
    → Enhancing Management’s Shareholders Relations

  • Empowerment via AI for Investors („Exit“)
    → Guidance in Investment/Desinvestment, esp. For Household Investment

  • More Generally: ... for Equilibria in and around Listed Companies („Corporate Digital Responsibility“)