

security organ. As the penalty does not involve the custody of the offender, it may avoid the 'cross-infection' resulting from imprisonment, and may help to encourage communities to join in the education and correctional reform of criminals; furthermore, as this modern penalty does not affect the criminals' work and family life, it follows the trends in criminal penalty development around the world. While there were only 23 crimes to which the control penalty was applicable under the 1979 Penal Code, the figure has been increased to 109 under the New Penal Code.

Fining is a frequently-used penalty in Western countries. Under China's 1979 Penal Code it was a supplementary penalty, mostly supplementary to penalties applicable to some profiteering crimes, while at the same time it was stipulated as independently applicable to some minor offences. However, taken as a whole, there were few crimes to which fining could be applied according to the 23 stipulations, of which only 14 were suitable for independent application. Under significant changes in the New Penal Code, although fining remains a supplementary penalty and is mainly applicable as a supplementary means, the number of applicable crime categories has increased to 180 – accounting for some 43.5% of the total, out of which 84 were suitable for independent

application (6 times the number prescribed in the 1979 Penal Code). This also corresponds with global trends.

CONCLUSION

In a modern society governed by rule of law, good laws are merely the basis and prerequisite for the rule of law, while sound and effective administration of justice is the key – and the hard nut to crack. Likewise, the development and improvement of China's New Penal Code has merely provided a legal basis for the development and improvement of its application of rule of law in criminal areas. The translation of legal norms stipulated in a document into a rule of law in actual practice still requires tremendous effort and dedication from all law departments, the whole of society and all the people who are determined to bring about the rule of law across the country. The reform of China's criminal law still has a long way to go and must continue to advance alongside the major social changes and developments currently taking place. 

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Book Review

Developments in European Company Law – Vol. 1

reviewed by Emilios Avgouleas

Edited by BAK Rider & M Andenas, Kluwer Law International (The Hague London, Boston) 1997, pp. xxvii + 238; ISBN: 90-411-0671-5.

This book was edited by two of the leading UK academics in the field of company and financial services law and carries the contributions of some leading experts in these areas. What is striking, however, is that the majority of the contributions refer in one way or another to fundamental issues of UK company and financial services law without alluding as extensively as the title suggests to relevant EC legislation. Nevertheless, this book contains some fine contributions. It starts with G Gilligan's study on the origins of self-regulation of the City of London. This, although it lacks the theoretical flair of comparable studies, still provides significant information about the origins and development of self-regulation in the City and how repeated attempts to impose statutory regulation were in one way or another frustrated. In this context, Gilligan draws useful conclusions about the influence of the City's financial community on lawmakers before the enactment of the *Financial Services Act 1986*.

Professor Rider's contribution, which touches on the disparity between what is perceived as conflict of interests in the UK and the rest of the EC member states, is interesting and informative. Rider's analysis of the English law on fiduciaries is, as are all Rider's writings on this topic, insightful and authoritative. The same observations apply to the contributions of Colin Bamford and Gerard McCormack. These authors, following the House of Lords decision in *Westdeutsche Landesbank*

Girozentrale v Islington LBC [1996] 2 WLR 802 and the Law Commission's 1995 paper 'Fiduciary Duties and Regulatory Rules' provide an interesting analysis of the possible ways in which the law on fiduciaries may intersect with the regulation of modern commercial and financial transactions, such as derivatives trading.

Finally, the book contains two contributions that seem very fitting with its theme. The first is by Mads Andenas and discusses the role of parallel proceedings in the disciplining of auditors together with relevant UK case law and EC legislation. Andenas raises some very timely and important points that should be given further consideration by UK lawmakers. The second contribution is by Professor Lomnicka, who analyses crudely the difficulties that home state control creates in the offer of cross-border investment services in the EU following the enactment of the Investment Services Directive ('ISD'). The author of this review feels obliged to agree with the majority of her observations as to the ambit of art. 11(2) of the ISD and the possibility of jurisdictional conflict that this creates.

This book contains contributions that will be found useful by the student of UK-EC company financial services law. Therefore it is hoped that the next volume, to be published later this year, will contain more contributions like the ones mentioned above with, however, more coverage of EC law. 

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