

Report on the Seminar Series – Current Problems of Private Commercial Law: Prof. DDr. Martin Gelter, S.J.D., Fordham University School of Law with the lecture: “Empirical Investigation of the Choice between Monistic and Dualistic Organ Structure in Europe”

On Monday, January 11, 2022, the fifth event of the seminar series “Current Problems in Private Commercial Law” (also known as “Monday Seminar”) in the winter semester 2021/2022 took place. The online event was hosted and moderated by **Univ.-Prof. Dr. Susanne Augenhofer, LL.M.** (Yale) and **Univ.-Prof. Dr. Alexander Schopper**. The lecturer **Prof. DDr. Martin Gelter, S.J.D.**, Fordham University of Law, gave a presentation on “Empirical Investigation of the Choice between Monistic and Dualistic Organ Structure in Europe”. During the lecture, the results of a study conducted by the lecturer (co-author: Prof. Dr. Mathias Siems, European University Institute, Florence) on the empirical investigation of the choice of organ structure for public limited companies within Europe were presented. In the subsequent discussion with **MMag. Dr. Christoph Diregger**, attorney at law, the latter also shed light in particular on the historical development of legislative organ structure requirements in Austria.

First of all, Prof. Gelter stated that – due to historical reasons – the monistic organ structure, according to which a unified board of directors is to be established, is still predominant in most countries. However, the dualistic organ structure already known in Austria, originating from Germany, according to which a supervisory board is to be set up as a controlling body in addition to the administrative board, which is to be separated from the latter in terms of personnel, is also gaining ground. In this context, he referred to the results of the study carried out in 2018 in the course of which 14 countries that explicitly provide for a choice between a monistic and dualistic organ structure were examined.

After a brief overview of the data sets and the scientific methods used for the study, Prof. Gelter presented examples of concrete empirical findings from the study to the participants connected online. Among the most apparent findings was that in many countries the “*traditional*” model of organ structure design, which existed before the introduction of the option, would still prevail. It was also evident that larger public limited companies tended to prefer the dualistic system, while smaller companies tended to choose the monistic system. Listed companies as well as older companies would also tend to select the dualistic system. Finally, Prof. Gelter summarized that, at

