Concurrence in European Private Law

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In the multi-level legal order, it is not unusual for a legal relationship between private parties to be governed by multiple Union rules on, for instance, non-discrimination, free movement, competition and the internal market more broadly. Nor is it uncommon that, on the face of it, national private law creates rights and duties as well. In such situations of concurrence, the question that arises is whether the interested party may elect the rule of his choice. Is he entitled to choose the rule which appears to him to be the most advantageous?

This book offers a scheme of analysis by which this question can be debated and solved. Inspired by the experiences gained from examining several national systems of private law, the book starts from the premise that each rule, however founded, should be realised to the greatest possible extent. In principle, the existence of one rule does not, therefore, affect the scope of application of another rule. The book demonstrates that this principle also runs through the texts adopted by the Union legislature and through the judgments delivered by the Court of Justice of the European Union. It makes a clear case that in situations of concurrence, the substance of the rules should be decisive, and not merely their formal relationship.

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