

Course Introduction to International Business Law

Lecture 4

Step up to Saxion.



Topics

- Revision lecture 3
 - Questions
- Subjects of today:
 - Introduction to ECO/Rome 1 (Source: Revised Chap.4 as PDF in your information system)
 - Conditions on the use of Rome 1
 - Content of Rome 1
 - Law applicable to international torts
 - Homework

Introduction to ECO/Rome 1

- European Regulation on Contractual Obligations (ECO)
- Revision came into effect 17 December 2009
- Applicable to contractual obligations *in general*
- Provides an answer on the question which body of law is applicable on a disputed contract
- ECO gives “rules of reference”

Conditions on the use of Rome 1

- Except for the United Kingdom and Denmark all EU–MS are submitted under Rome 1
- According to art. 25 Rome 1 is only applicable when there is no other *specific* Convention or Treaty dealing with the same subject (for example the Vienna Sales Convention)
- As far as the specific regulations don't answer the litigating matter, Rome 1 can be used as “gap filling law “

Content of Rome 1

- Art.3 : freedom of choice of parties
- Art.4: in case no choice of law was made *or* the choice cannot be demonstrated with reasonable certainty
 - Par. 1 under a up to and including h: specific contracts
 - Par. 2 law of the country where the party resides who has to fulfil the characteristic performance is applicable

Content of Rome 1 (part 2)

- Special provisions:

- Art.5: contracts of carriage

- Art.6: consumer contracts

- par.2 a choice of law cannot deprive the consumer of the protection of the law of his own country which is the applicable law acc. to par.1

- Art.7: insurance contracts

- Art.8: individual employment contracts



Content of Rome 1 (part 3)

- Art.8 : if no special law provision is mentioned in the individual employment contract ->
- Par.2: law of the country where the employee usually works is applicable
- Par.3: in case the employee is working in several countries, the law of the country of the *employer* is applicable
- Par.1: a choice of law cannot deprive the employee of the protection of the law which is more favorable to him according to art.8 par. 2 and par.3

Content of Rome 1 (part 4)

- Art.9: a court of law can decide to put aside the rules of art.3 up to and including art.8 Rome 1 and put instead the mandatory rules of another law to the contract in case there are certain circumstances to do so (Alnati-case).
- Art.11: as long as the contract meets the formal requirements of the law chosen by the parties *or* of the law of the country where the contract was concluded the contract is formally valid.

Law applicable to international torts

- Regulation on the law applicable to non-contractual obligations (Rome II)
 - Applicable law to tort is general
 - Applicable law in cases concerning for example product liability and environmental pollution

Homework

- Exercise 2 Chapter 4