EUROPEAN RULES ON THE LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS

MODULE: CONTRACTS AND LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS
Prof. Dr. Carlos LLORENTE GÓMEZ DE SEGURA

COURSE PROGRAMME

Administrative Details
Room: 157 (morning) / 164 (afternoon)
Schedule: November 8-9.

Contact Details
Office: 283-D
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Office Hours: Tuesdays 11:00-12:00

COURSE OUTLINE

1. International Contracts and Applicable Law: An Overview
   a. Relevance of international contracts
   b. Regulation of international contracts
      i. Problems
      ii. Solutions: Uniformity
2. Uniform Approach to Conflict of Laws in Contract Law
   a. European Approach
   c. Other approaches: OHADA
4. Rome I
   a. General Issues:
      i. Basic Characteristics
ii. Relation with Other Rules:
   1. Community Law (article 23)
   2. Rome Convention (article 24)
   3. International Conventions (article 25)

b. Scope of Application
   i. Space (articles 1.4 and 24)
   ii. Time (articles 28 and 29)
   iii. Personal (Universal) (article 2)
   iv. Material (article 1)

   1. Positive (article 1.1)
      a. Contractual Obligations in Civil and Commercial Matters
      b. International Character (Conflict of Laws)

   2. Negative: Exclusions (article 1.2 and 1.3)

c. Applicable Law Rules
   i. General Issues

   ii. Freedom of Choice (article 3)
      1. Concept
      2. Rules’ Justification
      3. Legal Nature of the Choice
      4. Requirements
      5. Possibilities

   iii. Applicable Law in the Absence of Choice (article 4)
      a. General Rule (article 4.1)
      b. Characteristic Performance (article 4.2)
      c. Escape Clause (article 4.3)
      d. Closing Clause (article 4.4)
iv. Specific Rules:
   1. Contracts of Carriage (article 5)
   2. Consumer Contracts (article 6)
   3. Insurance Contracts (article 7)
   4. Individual Employment Contracts (article 8)

v. Overriding Mandatory Provisions (article 9)
   1. Concept (article 9.1)
   2. Forum’s Mandatory Provisions (article 9.2)

d. Scope of Applicable Law (article 12)

e. Applicable Law to Specific Issues
   i. Consent and material validity (article 10)
   ii. Formal Validity (article 11)
   iii. Incapacity (articles 1.2(a) and 13)
   iv. Manner of Performance and Defective Performance (article 12.2)

v. Evidence (article 18)

vi. Voluntary Assignment and Contractual Subrogation (article 14)

vii. Legal Subrogation (article 15)

viii. Multiple Liability (article 16)

ix. Set-Off (article 17)

f. Rules of Application
   i. Concept of Habitual Residence (article 19)
   ii. Exclusion of Renvoi (article 20)
   iii. Public Policy of the Forum (article 21)
iv. States with More than One Legal System (article 22)

Required Texts

5. Inter-American Convention on the Law Applicable to International Contracts (Mexico Convention, 1994)

Readings

Along with the course documentation you will find a brief article on Rome I:


For further reading:

Franco FERRARI and Stefan LEIBLE (Eds.), Rome I Regulation. The Law Applicable to Contractual Obligations in Europe, Munich, Sellier; August 2009 (currently not available at the Deusto Library).

Problem

The course documentation includes a case-problem which will be discussed during the final stage of the November 3rd session.