

European Business Law

Part A : Introduction

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GENERAL PRESENTATION OUTLINE

A. INTRODUCTION

B. LEGAL SOURCES

C. MAIN TOPICS

D. PRACTICAL CASES

E. SUMMARY

A. INTRODUCTION

- I. What does EBL mean ?**
- II. Who are the EBL-actors ?**
- III. Which relationship exists between EBL-actors ?**
- IV. What kind of mobility do EBL-actors have ?**
- V. How to resolve disputes between EBL-actors ?**
- VI. What are the criteria of EBL-methods?**

A. INTRODUCTION

I. What does EBL mean ?

- **European :**
 - vs. international vs. transnational vs. cross-border
 - European Union vs. Council of Europe vs. EFTA states (Iceland/Liechtenstein/Norway/Switzerland)
- **Business :**
 - B2B vs. B2C
 - company vs. commerce vs. economic
- **Law :**
 - act / statutory provisions (*lex*)
 - legal rules / rules of law (*ius*)

A. INTRODUCTION

II. Who are the EBL-actors ?

➤ Companies : legal persons

- Company's organs & functions :
 - ✓ shareholder / member
 - ✓ directors / board of directors vs. supervisory board
- Commercial issues :
 - ✓ International contracts
 - ✓ Competition – Tort liability – Intellectual property

➤ Employees : natural persons

A. INTRODUCTION

III. Which relationship exists between EBL-actors ?

➤ Companies : legal persons

- Organs & functions : *lex societatis*
- Commercial issues :
 - ✓ Contractual relationship
 - ✓ Extra-contractual relationship

➤ Employees : natural persons

- Towards company : contractual relationship (employment contract)
- Towards third person (clients / supplier / business partners)
 - ✓ Factual relationship
 - ✓ Company representatives (negotiations – commitments – contracts)

A. INTRODUCTION

IV. What kind of mobility do EBL actors have ?

➤ **Companies : legal persons**

- International transfer of seat (real vs. statutory)
- Cross-border merger
- International conversion of company (change of statutory seat)

➤ **Employees : natural persons**

- Expatriate management - Posting employees abroad
- International mobility
 - Cross border commuters ("frontaliers")
 - Multiple employers
 - Multiple workplaces

A. INTRODUCTION

V. How to resolve disputes between EBL-actors ?

- **Jurisdictional vs. Non-jurisdictional method**
 - Jurisdictional : judge's decision
 - Non-jurisdictional : parties' settlement (mediation – conciliation)
- **Traditional (State Justice) vs. alternative (Private Justice)**
 - State Justice
 - ✓ Jurisdictional Procedure : judicial proceedings
 - ✓ Non-jurisdictional Procedure : judicial mediation / conciliation
 - Private Justice
 - ✓ Jurisdictional Procedure : arbitration
 - ✓ Non-jurisdictional Procedure : mediation

A. INTRODUCTION

VI. What are the criteria of EBL-rules ?

- **Jurisdictional** authority / competence :
→ Which tribunal (State Court) has jurisdiction?
- **Legislative** authority / competence :
→ Which rules shall be applied by the national State Court

A. INTRODUCTION

VI. What are the criteria of EBL-rules ?

- **(1) States Courts : which national State Court has jurisdiction ?**
 - PIL-rules of the seized Court (national rules vs. EU rules)
 - Choice by the parties
 - Objective determination (in the lack of choice)
 - General rules
 - Special rules
 - Protecting rules

A. INTRODUCTION

VI. What are the criteria of EBL-rules ?

- **(2) Which national law shall be applied by State Court?**
 - solely PIL-rules of the seized Court : national (hard) law
 - Contractual issues
 - Choice by parties (a priori)
 - Objective connections
 - Extra-contractual issues
 - Choice by parties (a posteriori)
 - Objective connections

B. LEGAL SOURCES

I. Treaties

- ① Treaty on European Union (TEU)
- ② Treaty on the Functioning of the EU (TFEU)
- ③ Charter of Fundamental Rights of the EU

B. LEGAL SOURCES

II. Regulations / Conventions

- ④ Brussels I bis Regulation & Brussels Convention on jurisdiction and the enforcement of judgments in civil and commercial matters
- ⑤ Lugano Convention on jurisdiction and the enforcement of judgments in civil and commercial matters of 30 October 2007
- ⑥ Rome I Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations
- ⑦ Rome II Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations

B. LEGAL SOURCES

- ⑧ Regulation (EC) No 2157/2001 on the Statute for a European Company
- ⑨ Proposal for a Council Regulation of 25 June 2008 on the Statute for a European Private Company

III. Directive

- ⑩ Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions

C. MAIN TOPICS

- I. Companies' mobility in the EU : legal sources n° 1 to 3 and 8 to 10**
- II. Cross-border Litigation : legal sources n° 4 to 7**
- III. Employee (staff) mobility in the EU : legal sources n° 4 to 7**

D. PRACTICAL CASES

- I. Brussels 1bis Regulation ("civil and commercial matters")**
- II. Rome I + II Regulation ("contractual" vs. "non-contractual")**
- III. Art. 49 + 54 TFUE**

E. SUMMARY & MCQ

➤ General revision of the EBL course

- Revision of the legal sources (Part. B)
- Revision of the main topics (Part. C)
- Revision of the practical cases (Part. D)

➤ Preparation to the Multiple Choice Method

- Class questions
- Practical Cases

Thank you for your attention !



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Without limits.

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