

Abstract

The law governing obligations with an international element

This master thesis deals with the legal regulation of the law applicable to obligations with an international element. It focuses in particular on the Rome I Regulation as the dominant law regulation for the regulation of the law applicable to contractual obligations with an international element. The thesis is divided into 4 chapters.

The first chapter deals with the various sources of law governing the issue. The Rome I Regulation is highlighted and its historical development is briefly described. In particular, the transition from the Rome Convention, an international source of law, to the Rome I Regulation, a piece of secondary European law, is presented. Afterwards the Rome I Regulation is compared with other competing legislation and it is explained how they relate to each other. At the national level, ZMPS and its relationship with other relevant legislation is mentioned. As the ZMPS is a residual norm in the field of contractual obligations with an international element, it is not discussed in detail.

The second chapter focuses on the scope of the Rome I Regulation. The concept of a contractual obligation and its autonomous interpretation are explained. It is shown in which cases the Rome I Regulation will apply.

The third chapter focuses on the institution of choice of law and its regulation in the Rome I Regulation. It is described what requisites a choice of law must fulfil in order to be valid and how to assess its validity. It is also discussed which law may be chosen by parties within the framework of autonomy of will. Finally, the various limitations of choice of law provided by Rome I Regulation are discussed, both those relating to specific types of contract and those of a more general nature.

The fourth chapter deals with the rules in the Rome I Regulation for determining the applicable law. The rules are separated into general rules and specific rules. It is described how these rules are applied and how to determine the applicable law correctly. The end of the chapter focuses on overriding mandatory provisions and public policy as institutes limiting the application of the law governing the contract. Finally, the scope of the applicable law is outlined.

Key words: Rome I Regulation, obligations with an international element, choice of law.