International Dispute resolution

ECTS : 3

Enseignant responsable : Helene VAN LITH (https://dauphine.psl.eu/recherche/cvtheque/van-lith-helene)

Langue du cours : Français

Volume horaire : 18

Description du contenu de l'enseignement :

Lecture 1 - The EU Approach to jurisdiction: The Brussels Regime

The Brussels I Regulation Recast, its Structure and the special jurisdiction rules concerning contractual matters and tortuous acts. The importance of determining the place of performance and the branch.

Lecture 2 – Case practice

Lecture 3 - The EU Approach to jurisdiction: The Brussels Regime: Torts, branch jurisdiction and interim relief

The Brussels I Regulation Recast jurisdiction concerning tortuous acts and the importance of branch jurisdiction and interim relief.

Lecture 4 + 5 - Comparative overview of Anglo-US Common Law on Jurisdiction.

Introduction to different origins and starting points to UK common law and US law on jurisdictional compared to compared to the Brussels I Regulation scheme.

UK Common law on jurisdiction: based on presence in England and service of process within the jurisdiction. Absent Defendant: Service of process outside the UK. Discretionary powers of English courts under the forum (non) conveniens doctrine.

Interaction between UK common law traditions and the 'Brussels Regime': Conflict of jurisdictions and parallel procedures: Judicial discretion and the forum non conveniens doctrine. Reflect on how current practice and ECJ Rulings would be resolved post Brexit and if the courts were to be allocated jurisdiction under the UK common law and US jurisdiction rules? The Lis Pendens- rule and Related Actions. Anti-suit injunctions in the Brussels system. Forum Shopping and Abuse of Process. Reflex Doctrine.

US Law on Jurisdiction Starting point and jurisdictional scheme under Brussels I Regulation compared with US jurisdictional rules: Constitutionalisation of US jurisdiction rules and the due process clause. Minimum Contacts: US long-arm statutes conferring jurisdiction on doing and transacting business criteria. General and specific jurisdiction. Purposeful availment of contacts and traditional notions of justice. Public and private factors and the US version of the forum non convenience doctrine.

Lecture 6: Party autonomy in litigation

Voluntary prorogation of jurisdiction, substantive and formal validity; asymmetrical clauses, article 25 Brussels Recast and The Hague Convention 2005. Interaction between state court litigation in and international arbitration. Anti-suit injunctions and arbitration exclusion.

Settlement of commercial disputes/ Alternative means to solve cross border disputes. ADR mechanisms: Mediation, expert determination, and dispute boards. The impact of settlement agreements and contractually binding decisions in the international arena and the role of courts or state authority. Is there a need for cross border recognition and enforcement aspects of ADR mechanisms? Mechanism of recognition and enforcement compared: Identifying the recognition mechanism (automatic/abolishment of exequatur): The rise of International Commercial Courts

Compétences à acquérir :

This course covers essential principles relating to international jurisdiction, choice of law and free movement of judgments, within the European judicial area but also beyond through a comparative study of the UK and US common law on international jurisdiction. While tackling practical consequences of globalization of legal relationships and its incidence on legal structures and different approaches to transnational justice and cross border commercial litigation. The course will cover specific topics of practical importance ranging from international business transactions to environmental damages, and from strategic and complex litigation to corporate social responsibility in the international arena. Special attention is given to trends or latest

development in international dispute resolution in court litigation, arbitration and other ADR techniques such as the increasing importance of party autonomy and the post-Brexit area. The course is designed as an interactive course, with a focus on comparative case-studies and intends to provide students with the complex tools and skills needed to understand and act within an increasingly transnational legal environment.

Pré-requis obligatoires

good understanding of principles of (international) law and conflict of laws.

Mode de contrôle des connaissances :

Control continue (active participation) + Oral Exam

Coefficient : 1.00

Bibliographie, lectures recommandées :

as per outline

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