International Business Law

ECTS : 3

Description du contenu de l'enseignement :

Introduction: Sources of International Business Law – international, regional, bilateral, national sources. State laws versus soft law. Hierarchy of sources, universal application, lois de police, public policy.

Actors in International Business Law: the corporations: Nationality of companies and corporate domicile/seat. Incorporation theory versus the real seat theory in questions of international jurisdiction, applicable law and recognition of companies. The importance of branch jurisdiction in international court litigation. Free movement of establishment in EC – Law and its influence on traditional private international law.

Corporations and insolvency: Corporations and the European Insolvency Regulation; international jurisdiction to open main and secondary insolvency proceedings, the applicable law and recognition of insolvency proceedings. Problems of identification of the COMI of the debtor.

Business transactions – harmonisation of substantive law and self- regulation by soft law: Sources of substantive IBL and the conflict of law approach - Harmonisation of substantive law: Applicable law in International contracts and transnational business relationships . Examples of Soft law: lex mercatoria; UNIDROIT principles; ICC Incoterms. ICC Model Clauses and Contracts.

Resolving Commercial Business Disputes & Party autonomy: International Arbitration as alternative to state court litigation

Key Concepts in international arbitration: Consent and arbitration agreements; legal framework and lex arbitrii; procedure and flexibility; enforcement; institutional and ad hoc arbitration. 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?

Compétence à acquérir :

International business law refers to rules, principles and practices of actors and structures doing business across borders. The course is intended to give an overview of the variety of issues an international business lawyer needs to address and understand with regard to transnational operations and litigations. Apart from regulations and rules enacted by the international, European (regional) and national legislator governing relations between private actors, natural persons or legal entities, and State and state entities, a business lawyer will also need to be well-versed in use soft law and self-regulate its international transactions and contracts.

Mode de contrôle des connaissances :

- **Controle Continue** (50% class participation and group presentations and 50% MCQ last lecture)

- Class participation: Active class participation – this is what makes classes lively and instructive. Come on time and prepared. Class participation is based on quality of comments, not quantity.

Bibliographie, lectures recommandées :

- Bogdan/Pertegas ‘Concise introduction to EU PIL’

- Goode/Kronke ‘Transnational commercial law’, 2015

- Jolivet: Incoterms in arbitral awards: ICC DRS Bulletin 2010-2

- Mourre: UNIDROIT as a Tool for Internationalisation of Contracts by Arbitral Tribunals, 2024