

PRINCIPLES OF CONTEMPORARY CONTRACT LAW

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Abstract: Participants in obligations are obliged in the legal transaction to comply with good business practices. On obligations, apply customs and usage if the participants in the obligatory relationship arranged their application or if it appears from the circumstances that they wanted their application. Starting from that, codification and harmonization of law are inevitably related to a comprehensive procedure, the aim is to create a system of commonly agreed upon principles and regulations for contract law at a national level.

Moreover modern contract law emphasizes the importance of faith. Parties are expected to act fairly towards each other during all stages of contracting. From negotiation to performance. Fostering trust and cooperation.

Lastly contemporary contract law recognizes remedies for breach of contract. When one party fails to fulfill their obligations without justification remedies such as damages or specific performance may be sought by the aggrieved party.

These principles form a foundation for contract law by establishing guidelines for fair and enforceable agreements between parties, in various commercial transactions.

Barriers that seem to impede the seamless flow of transactions will be eliminated through the establishment and acceptance of harmonized regulations governing contracts, thereby enhancing legal doctrine.

Keywords: obligations; principles; contract law; codification; harmonization

1. PRINCIPLES OF CONTEMPORARY CONTRACT LAW

The codification and harmonization of the law are inevitably related to the general process of modifying the laws of a country by creating a set of agreed upon principles and regulations in the area of contract law. The legal doctrine is enriched when uniform rules are established and implemented to regulate contracts, as this removes barriers that hinder smooth transactions. As an organization that encompasses the majority of the nations in this sector, the European Union fundamentally attempts to construct a system of balanced growth, both at the national and global levels, free movement of products and capital, and a common market with reasonably specified competitive rules. The European Union law consists of a collection of legal rules that govern the interactions between individuals and organizations, both physical and legal. Because of something like this, one of the important goals that the European Union has set for itself is the harmonization of civil law, and in that part, of course, contractual law is an important segment of it.

Globalization, mass production, developed distribution, and the consumption of a large number of products and services, for their part, impose a significant limitation on both aspects of the freedom of negotiation and almost marginalize the possibility of concluding contracts in circumstances of individual negotiation. (Directive 93/13, 1993)

Globalization undeniably has a significant impact on the advancement of private law, mainly due to the requirement for standardizing legal norms and the evolution of legal doctrine.

That specific effect of the legal philosophy of contract law, which is by definition a component of civil law and in different legal fields of the law of obligations, as well as the legal theory of European private law (Ried, 2002). The European Union has been required to speed up the harmonization and codification of contract law due to the internationalization and globalization of this process.

There has been a requirement for distinct regulation of various kinds of trade agreements, particularly those that are specific. This necessity arose from global developments and the European doctrine that governed contract law. As a result, there is now an obligation to embrace new and diverse social justice standards that differ from those traditionally associated with classical contract law. In fact, modern contract law develops in the clash between the need for liberalization and the introduction of coercive norms that are not characteristic of the relations that regulate the area of private law.

2. LAW ON OBLIGATION RELATIONS

National legislation can address the challenges that arise from conflicting norms in contract law by integrating the European Union's rules into existing laws in a satisfactory and coordinated manner.

Maintaining a cohesive structure of private law as a whole may require radical reforms, as it is sometimes not fully feasible. (Schlechtriem, 2002)

The "Ole-Landov Principles", also referred to as the "Principles of European Contract Law", were created by the Commission for European Contract Law in an effort to address and resolve these issues. (Lando, 2002)

These ideas constitute the foundation of European contract law, as well as the new European Civil Code.

The commission focused on various aspects while conducting its extensive work, including the implementation of traditional principles and the examination of topics such as negotiation freedom, contract formation, deadlines, representative authority, contract validity, contract fulfillment, circumstances change, debtor change, set-off, statute of limitations, and other relevant considerations within specific contracts. Despite being more like recommendations rather than binding rules, these principles are utilized by all European Union members regardless of their legal system (Anglo-Saxon law or civil law).

The Ole-Land principles which are adopted by Ole-Lando Commission (PECL Article 1.101) are meant to be used as general rules of contract law in two situations: when the parties explicitly include them in the contract, or when the parties have not specified which legal system will govern their contract.

The basic goals of the Ole-Land principles are (Lando, 2000): Facilitating the contracting parties to employ a impartial method for legal regulations concerning specific aspects of their contractual law, thus preventing the exclusive national law's implementation on one side; allowing arbitration to resolve contract-related disputes; serving as a foundation for a proposed European Contract Code and the implementation of a European Private Law Code; enhancing trade between member states strengthening the single European market, bridging the gaps between common law and civil law systems, and operating inside the European Union.

The Republic of Macedonia's national legislation offers equivalent legal options to the concepts put into practice by the Ole-Land Commission., specifically in the **Law on Obligation Relations**. Some examples include:

- the notion of diligence and integrity;
- the freedom of negotiation, that is, the freedom to arrange the bond relations;
- the fulfillment of duties in the way decided upon, that is, according to the Law on Obligation Relations, the duty to fulfill obligations.

The European Contract Law Principles represent a complex and well recognized endeavor to harmonize European contract law. They provide the basis of the recently developed European private law. (Zimmerman, 2004) A term called "Europeanization of private law" has emerged in modern legal doctrine due to something similar to this. (Joerges, 2003)

The conflict of laws within European contract law can only be resolved through the unification process using supranational sources and maintaining a supranational court system. The European Union, with its system of regulations and the European Court of Justice, has the potential to achieve this unification. The court can offer a unique interpretation of the common regulations that all member states employ if necessary. Previous attempts at unification through international accords have yielded different degrees of success in harmonizing national legislation with European legal philosophy in circumstances where global efforts are fruitless.

The process of harmonizing legislation in this field requires the elimination of conflicting laws and the continued use of "collision norms". Under this approach, national laws remain a means for resolving contractual disputes, but through harmonization, their content becomes more unified.

The complex process of coming together and achieving unity has seen considerable advancements in recent times. There have been notable strides made in organized international integration, incorporating international resolutions into national laws, and fostering unity within the European Union.

International Sale of Goods Convention of the United Nations Organization (KUMP) is a successful example of international unification. It is widely accepted globally and was developed by UNCITRAL. The course concentrated on American and European contract law.

During the modernization of a section of the Civil Code in Germany, international solutions were effectively incorporated into domestic legislation. This was particularly successful when it came to contracts involving physically movable objects, where solutions derived from the adopted principles of KUMP and the universally recognized Uniform Sales Law were embraced. (Zimmermtmn, 2002)

The European Union (previously known as the European Economic Community) has served as the setting for the majority of research performed in this field. The creators of the new European contract law believe that unification is most successful when market participants voluntarily accept it, rather than it being imposed through government regulations. However, by codifying and implementing standardized rules for contract regulation within the European Union, barriers that hinder smooth transactions are eliminated, leading to advancements in legal doctrine.

3. CONCLUSION

The document discusses the principles of contemporary contract law, focusing on the codification and harmonization of laws at a national and international level. It emphasizes the importance of establishing commonly

agreed upon principles and regulations for contract law to enhance legal doctrine and facilitate seamless transactions. The document also highlights the role of globalization in shaping contract law and the need for balancing liberalization and coercive norms. Additionally, it examines the Ole-Land Principles and their significance in European contract law, as well as the potential for unification through supranational sources and courts. The document concludes by discussing the process of harmonizing legislation and the successful examples of international unification, like the Convention on Contracts for the International Sale of Goods, which is a United Nations convention.

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