

Abstract

The thesis is dealing with prorogation and arbitration clauses in international trade, focusing on Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I *bis*) and on the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In particular, the thesis aims to describe the procedure of valid negotiation and the formation of clauses, including the analysis of possible interpretation issues. The common objective of the prorogation clauses as a choice of court agreements and arbitration clauses, is to determine who and where should have the jurisdiction to resolve any dispute arising between the parties and to reinforce their legal certainty. The outcome of the work is therefore to verify the hypothesis that the conclusion of such clauses really strengthens the legal certainty of the parties. Regarding the prorogation clauses, the theoretical level is supplemented by a practical insight into the whole issue in the form of an analysis of the Court of Justice of the European Union case law. Regarding arbitration clauses, the aim is to provide a certain international overview, to outline generally applicable principles and to point out some differences in national approaches. In addition to the introduction and conclusion, the work is divided into three chapters. The first chapter presents the methods of dispute resolution in international trade and offers a brief comparative view of the basic types of dispute resolution, ie court proceedings, arbitration and ADR. The second chapter deals with prorogation clauses and is further divided into a subchapter dealing with the scope of the Brussels I *bis* Regulation, a subchapter on the content of prorogation clauses and a subchapter on formal and material validity and the principle of separability of prorogation clauses. Finally, the third chapter deals with arbitration clauses and is divided into six subchapters. The first deals with the hierarchy of legal sources concerning arbitration clauses and the conditions of their application. The second subchapter presents three characteristics that affect the enforceability of arbitration clauses. These are the presumptive validity of arbitration clauses, the principle of severability and the doctrine of Competence-Competence. The subject of the third subchapter is the applicable law of arbitration clauses and it presents the most common

procedures for its determination. The content of the fourth subchapter is the validity of arbitration clauses and, as with the prorogation clauses the formal and material validity is examined. The subchapter also briefly deals with the arbitrability of various types of disputes. The fifth and sixth subchapters describe the content of the arbitration clause and the consequences of determining the seat of the arbitration.

Key words:

forum selection, arbitration agreement, international dispute resolution

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Prorogation and arbitration clauses in international trade