

Conflict of laws in contracts in the USA

Abstract

This thesis is focused on Conflict of Laws in the area of contractual relationship in the United States of America. Selected issues are being compared with law of the European Union. The First Chapter elaborates on the specific issues in Conflict of Laws, which are typical for the USA. These are mainly caused by the fact that within the USA, two separate legal systems operate on different levels - state and federal law. These specific issues also include the so-called idea of law-market or forum-shopping. Then I briefly summarize the history of American Conflict of Laws and describe the approaches that bear importance for the development of Conflict of Laws. The Second Chapter is focused on party autonomy in choice of law, its permissibility and limitations. Having used recent case law, I outline the approach to autonomous choice of law in certain types of contracts. The end of Chapter Two is about autonomous choice of law under the Uniform Commercial Code, which harmonizes the area of commercial law and which has been accepted in all American states. The Third Chapter deals with the absence of choice of law and finding the applicable law. I described the most widely used method under the Second Restatement, then the method under First Restatement and also the better-law approach. At the end of Chapter Three I briefly outline the European rule for absence of choice of law, as set out by the Rome I Regulation, which unifies conflict of laws in contracts in the whole European Union. Throughout the thesis, I compare certain issues with the law of the European Union. This yields the result that American private international law focuses on flexibility and material justice, whereas the European law gives special attention to legal certainty and predictability. The main tools used for writing this thesis were the analyses of legal text and case law, as well as mostly foreign scholarly literature.

Key words: conflict of laws in the USA, applicable law, contracts.