

## 9. Summary

The main purpose in writing this work is to create an awareness and understanding of franchise agreements and to show their efficacy as to legal tool for international business.

Franchising could be described as a system of marketing goods or services, which is based upon an ongoing collaboration between legally independent undertakings, the Franchisor and the Franchisee. Franchisor grants Franchisee the right to conduct a business in accordance with the Franchisor's concept. The right entitles the Franchisee, in exchange for a financial consideration, to use the Franchisor's trade name, trademark, service mark, know-how, business and technical methods and other intellectual property rights, supported by continuing commercial and technical assistance, within the framework of a written franchise agreement, concluded between parties.

The franchise agreement should reflect the economic interests of the members of the franchised network, protect the Franchisor's industrial and intellectual property rights and also protect the common identity and reputation of the franchised network.

International franchising transaction is governing by the law of international business transactions that straddles both the public and the private law. There are plenty of laws relating to this contract but only few countries regulate the specific content of this transaction and there are also no international treaties concluded, but there are attempts to regulate this contract internationally. For example UNIDROIT (The International Institute for the Unification of Private Law) prepared model laws - Model Franchise Disclosure Law and The UNIDROIT Law to International Master Franchise Arrangement that states may take into consideration when drafting domestic legislation on the subject covered.

Parties will usually belong to different countries and also the use of franchise will take place in a country other than that of the franchisor, the

contract has close connection to more than one country, therefore an problem with applicable law and jurisdiction arise.

Internationally recognized is the right of the parties to choose the law applicable to their contract, cases where the parties have made a choice law prevails and there is no choice-of-law problem. Parties also often make arrangement that establish jurisdiction of particular court to settle any disputes that may arise in connection with their legal relationship. When parties make no choice of law or prorogation of jurisdiction, court will use arrangements of private international law of *lex fori* to decide which law to apply and to consider its own jurisdiction.

The basis upon which the franchise relationship is built are intellectual property rights and they are therefore of fundamental importance and especially the international conventions and other regulations of international origin must be taken into account. Also competition law might cover the terms of the franchise agreement. The problem in franchising is ensuring that the franchisee is given the best possible protection to develop its territory, for example by being granted exclusive territorial rights, but without the terms of the agreement falling under the terms of the competition legislation.

As we can see many national and international arrangements will play their part and will require consideration and when the parties ponder whether a particular franchise agreement will give them anticipated advantages, they have to take into consideration a number of legally important issues.