ENGLISH ABSTRACT

Objective arbitrability as a limit of the transnational legal order

In general, the disertation deals with a topic of interaction between the transnational and national law in the area of international trade. Specifically, it attempts to use the concept of objective arbitrability as a limit of the privately-created system of law referred to as *lex mercatoria* (alternatively „*new lex mercatoria*“).

The reason for the chosen methodology is to come up with the most objective criterion to demark the scope of the application of privately created norms. Despite the wide recognition of the NLM fenomenon among the scholars and even arbitrators, the parties of international trade contracts can not be certain whether (and to what extent) the choice of NLM will be limitating, especially in the face of later recognition and enforcement of their arbital awards.

The findings of this dissertation flows from the analysis of transnational norms, decisions of both state courts and arbitration tribunals and the relevant sources of law-theory. Especially important is the description of the concept of *lex mercatoria* as such and the description of order public, both in national and international/european meaning as it represents the final limit of application of privately-created norms.

The conclusion of the dissertation is that the NLM can not be applied entirely independently from the conditions of the state law applicable in the place of possible enforcement, and thus it has to respect the basic conditions of objective arbitrability according to state law. Although the concept of NLM is able to survive on its own with reference to the idea of legal pluralism, the point of view of practical application is another matter and thus it can not rely solely on theoretical argumentation.

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