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**ECPD Headquarters**

European Center  
for Peace and Development  
Centre Européen  
pour la Paix et le Développement  
Centro Europeo  
para la Paz y el Desarrollo  
Европейский центр  
мира и развития



University for Peace

**INTERNATIONAL POSTGRADUATE STUDIES**  
**EUROPEAN UNION, EU LAW AND**  
**INTERNATIONAL BUSINESS LAW**

*in cooperation with*



International Institute for the Unification  
of Private Law (UNIDROIT), Rome



United Nations Commission on International Trade  
Law (UNCITRAL), Vienna



University Complutense  
Madrid, Spain



International Law Institute  
Washington D.C.

***Word of the President  
of the ECPD Council***



Proceeding from its aim to **promote peace through development**, the European Center for Peace and Development (ECPD) carries out numerous multidisciplinary activities, which are oriented towards improving the **quality of life and promoting a consistent development strategy** of countries. Among these activities special attention is devoted to the dissemination of knowledge, education and advanced training of personnel as universal resources for the progress of every society.

In pursuing this aim, the ECPD has developed, in addition to research and development activities, a new **comprehensive system of postgraduate studies in the law of the European Union and international business law at specialist's and master's levels**, which is adjusted to the current development problems.

At the beginning of 2001, in order to achieve this aim, the ECPD concluded a general cooperation agreement with the International Institute for the Unification of Private Law (UNIDROIT) from Rome, a world-reputed institution in this area. A great number of international conventions relating to the international sale of goods, leasing, franchising, agency, transport, protection of cultural property and the like have been drawn up precisely by UNIDROIT. Many of these conventions have already come into effect.

According to the cooperation agreement between the ECPD and UNIDROIT, the world's leading experts will carry out the programme of instruction. Certificates of completed seminars and courses, as well as diplomas conferred upon completion of postgraduate studies at specialist's and master's levels will jointly be issued and signed by the ECPD and UNIDROIT.

Under the agreement, the ECPD and UNIDROIT will jointly carry out these educational programmes in the entire territory of South-Eastern Europe.

This brochure presents the principles, aims, plans, methods and conditions relating to the postgraduate studies in the law of the EU and international business law.

Part 1 of this brochure gives information about the organizers of postgraduate studies in law of the EU and international business law – the European Center for Peace and Development (ECPD) and the International Institute for the Unification of Private Law (UNIDROIT), as well as about the collaborators: the International Development Law Organization (IDLO), International Law Institute (ILI) and University of Trieste Law Faculty.

Part 2 provides the basic data on the work and composition of the COUNCIL of the ECPD and UNIDROIT for postgraduate studies in the law of the European Union and international business law.

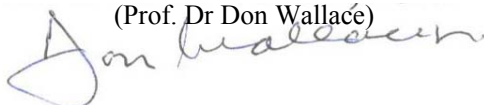
Part 3 gives information about the forms and methods of instruction, admission, duration of studies, earning of a degree and tuition fee.

Part 4 gives the curricula of individual subjects.

Part 5 provides the data on the teachers and collaborators participating in the programmes of the International Postgraduate Studies in the law of the European Union and international business law.

Part 6 includes the enclosures relating to the following: career planning, admission to the ECPD Postgraduate Studies, Rules of ECPD International Postgraduate Studies, Guidelines for application and preparation of master's thesis.

Looking forward to your participation in the ECPD programmes of postgraduate studies in the law of the European Union and international business law, I send you my best regards.

President of the ECPD Academic Council  
(Prof. Dr Don Wallace)  


*Welcome Note*

Dear colleagues,

International Postgraduate Master Studies on The European Union, Community Law and International Business Law offer to the postgraduate students the highest level of study, but also requires a lot of dedication and work. The choice of subjects, teaching methods and world-renowned professors guarantee quality and interesting studies that provide students with a high level of knowledge that is compulsory for a successful career in the realm of international organizations and economic diplomacy, international law, international commerce and movement of goods and services. Students that complete the ECPD International Postgraduate Studies on The European Union, Community Law and International Business Law will acquire an all-encompassing perspective on the system of the European Union, on legal frameworks in international trade, in addition to specific knowledge about the legal regulations, which arrange the European Union marketplace.

This is the basic information about the curriculum of International Postgraduate Master Studies on The European Union, Community Law and International Business Law, as well as answers to basic questions concerning enrolment terms, teaching and study process and the obtainment of diplomas.

More detailed information to the prospective students, regarding the subject content outlined in the syllabus for International Postgraduate Studies in The European Union, Community Law and International Business Law is available upon request. Please keep on mind that whenever we speak about “Community Law” it is the proper expression for is usually known as “Law of the European Union”.

Should you require any additional information, please do not hesitate to call or write to us.

For information and inquiries about postgraduate studies, please contact:

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***Organizers and Cooperation  
Partners of the International  
Postgraduate Studies***

## I. ORGANIZERS

### 1. THE EUROPEAN CENTER FOR PEACE AND DEVELOPMENT (ECPD)

The United Nations University for Peace was established by the Resolution 35/55 of the United Nations General Assembly in 1980. In accordance with its Charter, the University for Peace is “... *an international institution of higher education for peace and with the aim of strengthening the spirit of understanding, tolerance and peaceful co-existence among all peoples, promoting cooperation among nations and contributing to the prevention and peaceful settlement of conflicts, as well as to the development in the world, in the spirit of the Charter of the Organization of the United Nations. To this end, the United Nations University should contribute to the resolving of the significant universal task of training for peace by engaging in education, research, postgraduate studies and dissemination of knowledge necessary for full development of man’s personality and human societies and by adopting an interdisciplinary approach to everything that is connected with peace*”.

Therefore, the United Nations University for Peace has the legal status necessary for the performance of its tasks and attainment of its aims. It has autonomy and academic freedom as regards its work, in accordance with its humanistic aims and within the scope of the United Nations Charter and Universal Declaration of Human Rights. In that sense, this “*University may associate and conclude agreements with governments, inter-governmental and other organizations, that is, institutions in the field of education, and maintain special relations with the United Nations Educational, Scientific and Cultural Organization (UNESCO), bearing in mind its responsibilities in the field of education*”.

The United Nations University for Peace was established as “... *an international center for research, higher education and postgraduate studies*”, aimed specifically at “*training for peace and international cooperation*”. To this end, the Council of the University for Peace, at its session of 20 January 1983, passed Resolution UP-C2 for the establishment of the European Center for Peace and Development (ECPD) of the United Nations University for Peace, whereby it was proposed that its headquarters should be in Yugoslavia. The Government of the Socialist Federal Republic of Yugoslavia accepted this initiative and, on 22 October, 1984, concluded the Agreement for the Establishment and Status of the European Center for Peace and Development (ECPD), with Headquarters in Belgrade, with the United Nations University for Peace. *The Agreement was ratified by the Law* adopted by the *Federal Parliament* - by the *Chamber of the Republics and Provinces* on 28 June and by the *Federal Chamber* on 17 July, 1985, and has been in force up to the present day.

This is how the European Center for Peace and Development (ECPD) of the University for Peace established by the United Nations, with headquarters in Belgrade was founded, as the only *university, regional, international and extraterritorial organization with diplomatic status*, which operates within the broader United Nations system in the region covering all *countries signatories of the Final Act of the Conference on European Security and Cooperation (Helsinki, 1975)*.

The basic activities of the European Center for Peace and Development (ECPD) of the United Nations University for Peace include *research, organization of appropriate studies and international transfer of knowledge aimed at preserving peace and promoting development*.

In accordance with the *principle of continuity* of statehood, the **Government of the Federal Republic of Yugoslavia** assumed all obligations of the ECPD arising from the above Agreement, including the provision of technical and accommodation facilities. *Following the same principle, the role of host state passed first to the State Union of Serbia and Montenegro, then to the Republic of Serbia. All entities created from the former Yugoslavia, further to the principle on the state succession, one of the basic rules of International Law, inherited and recognized the laws and international agreements of the former Federation.*

***In accordance with that principle ECPD has the same status and rights on all the territories which in 1985, when the Law was ratified, were integral part of SFRJ.***

The European Center for Peace and Development is managed by the ***ECPD Council*** and the ***Executive Director*** with a team of officials and experts in Belgrade. In carrying out its activities, the ECPD relies to a large extent on its close relations with numerous institutions throughout the world.

***Besides Belgrade Headquarters, ECPD organized its operational units, Regional Programme Centres through whole South Eastern Europe. Several institutes, branch offices and representative offices exist in numerous European countries.***

The basic aim of the ECPD is to ***contribute to the promotion of peace, development and international cooperation***, and its basic tasks are ***“to organize and conduct appropriate postgraduate studies (at specialist’s, master’s and doctoral levels), research and the dissemination of knowledge...”***, which contribute to the attainment of the mentioned aim.

The ECPD covers its operating costs out of its ***earnings from the elaboration of research programmes and projects, tuition fees, registration fees, voluntary contributions of governments and international organizations and foundations.***

The ECPD carries out its activities in the territory of Helsinki Europe, whereby it places special emphasis on the countries in transition, but is also open for cooperation with other parts of the world. The ECPD has developed its strategy, proceeding from the following facts:

- ***A widening gap between developed and underdeveloped countries and regions generates inequalities, imbalances and conflicts that may become the sources of internal and international tensions, thus jeopardizing peace and development; and***
- ***Development cannot be defined only as an increase in national income, which is undoubtedly a vital prerequisite for any progress, but also as real improvement of the quality of life in all of its aspects and as the ultimate objective of any strategy of development and stable peace.***

In order to improve the quality of life, it is necessary to take a comprehensive approach to the solving of problems. The European Center for Peace and Development (ECPD) of the University for Peace established by the United Nations opted for an interdisciplinary approach by carrying out the following eight, closely interrelated groups of programmes:

- ***Development of natural resources;***
- ***Development of human resources;***
- ***Social development;***
- ***Economic development;***
- ***Technological development;***
- ***Integrated development;***
- ***Development of international relations and cooperation;***
- ***Management.***

The programme of work of the European Center for Peace and Development (ECPD) of the University for Peace established by the United Nations is based on a ***synergetic and multidisciplinary approach to the studies. It is oriented towards a timely and efficient solving of acute and chronic development problems relating to the quality of life in the specified regions of Europe and especially in its South-Eastern part.***

The ECPD devotes special attention to bringing together the intellectual potentials of the ***West and the East***, as well as to strengthening cooperation between ***the North and the South***. To this end, the ECPD organizes and conducts:

- ***Postgraduate studies at specialist’s, master’s, doctoral and postdoctoral levels;***



- ***Elaboration of research projects and studies devoted to the current problems of peace and development;***
- ***Scientific meetings, symposia, conferences, courses and seminars at which the results of its researches are also presented;***
- ***Publishing, printing and distribution of the proceedings of its scientific meetings, studies and other scientific papers relevant for the ECPD activities.***

The ECPD programmes are based on the affirmation of the greatest international achievements, academic knowledge and experience. By its programmes, the ECPD provided a scientific basis for the establishment of appropriate relations between market economies and economies in transition, thus alleviating and closing a gap in their levels of development, as well as promoting better understanding and tolerance among countries and peoples, peace, development and democracy. As an international, non-profit organization, the ECPD enjoys full academic freedom necessary for the attainment of the desired aims, especially with respect to the selection of the areas and methods of research aimed at promoting peace and disseminating knowledge about peace and development.

Numerous international and regional organizations have entrusted and entrust the European Center for Peace and Development of the University for Peace established by the United Nations with specific programmes and projects, including the UN Industrial Development Organization (UNIDO), UN Educational, Scientific and Cultural Organization (UNESCO), UN Development Program (UNDP), UN Organization for Trade and Development (UNCTAD), International Monetary Fund (IMF), World Bank (WB), International Labour Organization (ILO), World Health Organization (WHO), UN International Children's Fund (UNICEF), World Trade Organization (WTO), International Atomic Energy Agency (IAEA), Organization for Economic Cooperation and Development (OECD), Inter-American Development Bank (IDB), European Bank for Reconstruction and Development (EBRD), International Trade Center (ITC) and others.

The ECPD has so far carried out exceptional activities and achieved remarkable results, reflected in 700 project, consulting, educational and other enterprises.

European Center for Peace and Development is an institution that can provide necessary assistance to the enterprises operating in the region covered by its activities in the areas of research, education and consulting services, in direct contact and with the assistance of experts from the developed part of the world, that is, its associates with the proven abilities, displayed in the execution of the previous projects.



***Figure 1 – The seat of the ECPD headquarters***

## **2. INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW (UNIDROIT)**

The International Institute for the Unification of Private Law (UNIDROIT) is an independent inter-governmental organization with its seat in Rome. Its purpose is to examine the ways of harmonizing and coordinating the private law and especially, commercial law of states or groups of states, and to prepare gradually uniform rules of private law for the adoption by states.

Set up in 1926 as an auxiliary organ of the League of Nations, the Institute was, following the demise of the League, re-established in 1940 on the basis of a multilateral agreement, the UNIDROIT Statute.

Membership of UNIDROIT is restricted to states acceding to the UNIDROIT Statute. UNIDROIT's member countries are from five continents and represent different legal, economic and political systems.

The UNIDROIT has 59 member countries. Those are: Argentine, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, China, Columbia, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Holy See, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Japan, Luxembourg, Malta, Mexico, Montenegro, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Paraguay, Poland, Portugal, Republic of Korea, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom, United States, Uruguay, Venezuela.

The Institute is financed by annual contributions from its member countries, which are fixed by the General Assembly, as well as by the basic annual contribution from the Italian Government.

The official languages of UNIDROIT are English, French, German, Italian and Spanish, and its working languages are English and French.

### ***Achievements***

During all these years, the UNIDROIT prepared over 70 studies and drafts. Many of these have resulted in international instruments, including the following international conventions and model laws, all being in force unless otherwise indicated, which were drafted by the UNIDROIT and adopted at diplomatic Conferences convened by its member states:

- 1964, Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (The Hague);
- 1964, Convention relating to a Uniform Law on the International Sale of Goods (The Hague);
- 1970, International Convention on the Travel Contract (Brussels);
- 1973, Convention providing a Uniform Law on the Form of an International Will (Washington, D.C.);
- 1983, Convention on Agency in the International Sale of Goods (Geneva) (not yet in force);
- 1988, UNIDROIT Convention on International Financial Leasing (Ottawa);
- 1988, UNIDROIT Convention on International Factoring (Ottawa);
- 1995, UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome);
- 2001, Convention on International Interests in Mobile Equipment (Cape Town);

- 2002, Model Franchise Disclosure Law.

The UNIDROIT also published:

- Principles of International Commercial Contracts (Part I, 1994);
- Guide to International Master Franchising Arrangements (1998).

Its work also served as the basis for a number of international instruments, adopted under the auspices of other international organizations, which are still in force. Those are:

- 1954, Convention for the Protection of Cultural Property in Case of War (adopted under the auspices of UNESCO);
- 1955, European Convention on Establishment (Council of Europe);
- 1955, Benelux Treaty on compulsory insurance against civil liability in respect of motor vehicles;
- 1956, Convention on the Contract for the International Carriage of Goods by Road (CMR)(UN/ECE);
- 1958, Convention on the recognition and enforcement of decisions involving obligations to support minor children (Hague Conference on International Private Law);
- 1959, European Convention on Compulsory Insurance against Civil Liability in respect of Motor Vehicles (Council of Europe);
- 1962, European Convention on the Liability of Hotel-keepers Concerning the Property of Their Guests (Council of Europe);
- Protocol No. 1 concerning rights in rem in inland navigation vessels and Protocol No. 2 on the attachment and forced sale of inland navigation vessels annexed to the 1965 Convention on the Registration of Inland Navigation Vessels (UN/ECE);
- 1980, United Nations Convention on Contracts for the International Sale of Goods (UNCITRAL).

### ***Auxiliary Activities***

The major support for the UNIDROIT's basic activity – drawing up of uniform rules – is provided by its world-reputed library, publishing of various specialized publications devoted to the unification of law, its legal cooperation programme, its project for a uniform law data base and its periodic organization of congresses, meetings and seminars.

International Institute for the Unification of Private Law (UNIDROIT)

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## **II. COLLABORATORS**

### **1. United Nations Commission on International Trade Law (UNCITRAL)**

#### **Origin**

In an increasingly economically interdependent world, the importance of an improved legal framework for the facilitation of international trade and investment is widely acknowledged. The United Nations Commission on International Trade Law (UNCITRAL), established by the United Nations General Assembly by its resolution 2205 (XXI) of 17 December 1966, plays an important role in developing that framework in pursuance of its mandate to further the progressive harmonization and modernization of the law of international trade by preparing and promoting the use and adoption of legislative and non-legislative instruments in a number of key areas of commercial law. Those areas include dispute resolution, international contract practices, transport, insolvency, electronic commerce, international payments, secured transactions, procurement and sale of goods. These instruments are negotiated through an international process involving a variety of participants, including member States of UNCITRAL, which represent different legal traditions and levels of economic development; non-member States; intergovernmental organizations; and non-governmental organizations. Thus, these texts are widely acceptable as offering solutions appropriate to different legal traditions and to countries at different stages of economic development. In the years since its establishment, UNCITRAL has been recognized as the core legal body of the United Nations system in the field of international trade law.

#### **Membership**

Members are selected from among States Members of the United Nations. UNCITRAL's original membership comprised 29 States and was expanded by the General Assembly of the United Nations in 1973 to 36 States and again in 2002 to 60 States. The expansion reflected the broader participation and contribution by States beyond the then existing member States and stimulated interest in UNCITRAL's expanding work programme.

Structured to ensure that the various geographic regions and the principal economic and legal systems of the world are represented, the 60 member States include 14 African States, 14 Asian States, 8 Eastern European States, 10 Latin American and Caribbean States and 14 Western European and other States. The General Assembly elects members for terms of six years; every three years the terms of half of the members expire.

#### **UNCITRAL texts**

- Convention on the Limitation Period in the International Sale of Goods, 1974 (New York)
- UNCITRAL Arbitration Rules (1976)
- United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg)
- United Nations Convention on Contracts for the International Sale of Goods, 1980 (Vienna)
- UNCITRAL Conciliation Rules
- Recommendations to assist arbitral tribunals and other interested bodies with regard to arbitrations under the UNCITRAL Arbitration Rules
- Provisions on a universal unit of account and on adjustment of the limit of liability in international transport conventions

- Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance
- Recommendations to Governments and international organizations concerning the legal value of computer records
- UNCITRAL Model Law on International Commercial Arbitration (1985)
- UNCITRAL Legal Guide on Electronic Funds Transfers
- UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works
- United Nations Convention on International Bills of Exchange and International Promissory Notes (1988)
- United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (1991)
- UNCITRAL Model Law on International Credit Transfers (1992)
- UNCITRAL Legal Guide on International Countertrade Transactions (1992)
- UNCITRAL Model Law on Procurement of Goods, Construction and Services with Guide to Enactment (1994)
- United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, 1995
- UNCITRAL Model Law on Electronic Commerce with Guide to Enactment (1996)
- UNCITRAL Notes on Organizing Arbitral Proceedings
- UNCITRAL Model Law on Cross-Border Insolvency with Guide to Enactment (1997)
- UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects (2000)
- UNCITRAL Model Law on Electronic Signatures with Guide to Enactment (2001)
- United Nations Convention on the Assignment of Receivables in International Trade (2001)
- UNCITRAL Model Law on International Commercial Conciliation with Guide to Enactment (2002)
- UNCITRAL Model Legislative Provisions on Privately Financed Infrastructure Projects (2003)
- UNCITRAL Legislative Guide on Insolvency Law (2004)
- United Nations Convention on the Use of Electronic Communications in International Contracts (2005)

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## 2. INTERNATIONAL LAW INSTITUTE (ILI)

The International Law Institute was founded in 1955 at the Georgetown University Law Center. A sister institute, the *Institut für Ausländisches und Internationales Wirtschaftsrecht*, was founded at the same time at the Johannes Goethe University in Frankfurt, Germany; it continues its work today. Professor Heinrich Kronstein, the Institute's first director, believed that closer ties between European and American legal systems would facilitate business and trade. The Institute's early years were marked by scholarly work and academic exchanges.

Beginning in the early 1970s - under the leadership of a new director, Professor Don Wallace, Jr., of Georgetown - the ILI expanded its focus to include professional training in the legal, economic, and financial problems of developing countries. An early collaborator in this work was Professor Robert Hellawell of Columbia University Law School.

Since 1971 the International Law Institute has trained over 8,000 professionals from 180 countries. The goal of the Institute is to plant the seeds of knowledge and experience so that all nations of the world can achieve practical solutions to their problems in ways that fit their own needs.

The Washington Program seminars train participants from both the public and private sectors to:

- lead their nations toward improved legal regimes, sound economic policy, and effective capital markets;
- promote constructive collaboration between the public and private sectors;
- serve as capacity builders in their organizations and in their home countries;
- represent their organizations on an equal footing with foreign investors, governments, multilateral organizations, contractors, consultants, and licensors;
- develop and implement policies that promote the interests of their organizations;
- manage their organizations more effectively.

The earliest courses offered were *Foreign Investment Negotiation* and *International Procurement*. In the early 1990s the Institute's work broadened to include the problems facing nations formerly part of the Soviet Union as they began to make the transition to market economies and the rule of law.

Today the International Law Institute is an independent, not-for-profit organization. It continues to work closely with Georgetown University, as well as with numerous corporations, international organizations, and governments.

When the Institute offered its first training program in 1971, the contentious issue in developing countries was whether to involve the private sector. Today the issue is how to maximize the private sector's participation in conjunction with enlightened government policies. Although the issues have changed over the years, the Institute's mission has remained constant: to provide government officials and private executives with the knowledge to form sound policies and with the skills to lead their countries towards economic expansion and effective participation in the global economy.

In January 2002, the European Center for Peace and Development and the International Law Institute signed a general cooperation agreement in order to develop a closer academic relationship. The Washington Institute's Training Program is presented through seminars at its headquarters at Pacific House in Washington, D.C., 1615 New Hampshire Avenue, N.W. Washington, D.C. 20009, USA; Telephone: (202) 483-3036, Fax: (202) 483-3029, E-mail: [training@ili.org](mailto:training@ili.org), Internet: [www.ili.org](http://www.ili.org)

### **3. INTERNATIONAL DEVELOPMENT LAW ORGANIZATION (IDLO)**

The International Development Law Organization (IDLO) is the world's leading public organization wholly dedicated to achieving peace, justice and improved living standards, by reducing the disparity in legal competency between countries and by assisting processes of legal reform that are consistent with good governance and the rule of law.

Drawing from the world's legal systems, IDLO transfers legal knowledge and skills to developing and transitioning countries and to those emerging from conflict. This reform effort is the basis for economic and social development and creates conditions that are conducive to improved social justice, increased trade and investment and more efficient distribution of all forms of aid.

This mission is achieved by:

- Delivering continuing legal educational programs to current and future leaders of countries served. Based upon IDLO's own field experience, research and documentation, these programs focus on all legal aspects of economic and social development, international trade and judicial reform.
- Providing technical assistance to governments in their judicial and legislative reform efforts to improve and promote safe, predictable and corruption free environments for economic actors and civil society.
- Assisting the creation of local institutions that become resources for training and technical assistance and become components of a global network of people and institutions to lead societies toward sustainable development.

IDLO was established in 1983 and converted to its present intergovernmental status by an agreement which has now been adhered to by 16 Member States: Australia, Austria, Bulgaria, China, Colombia, Ecuador, Egypt, France, Italy, the Netherlands, Norway, the Philippines, Senegal, Sudan, Tunisia and the United States of America.

IDLO is governed by the Assembly of Member States and by the International Board of Directors. The Director-General is Mr. William T. Loris and headquarters are located in Rome, Italy. In December 2001 the Organization was granted permanent observer status at the United Nations General Assembly.

IDLO has a 20-year track record in designing and conducting practice-oriented training for legal professionals. Training is delivered at the IDLO headquarters in Rome and in numerous developing and transition countries. IDLO trains lawyers, judges and legal advisors in a range of skills (advising, negotiating, legal drafting and alternative dispute resolution), as well as in the following subject areas: international commercial law, economic reforms law, financial law, comparative judicial reform and good governance (such as environmental law and anti-corruption).

To date, over 12,000 legal professionals from 162 countries have benefited from IDLO training programs in Rome and around the world. IDLO has fostered the creation of Alumni Associations in more than 30 countries and maintains and supports a network of counterpart organizations in the countries where it operates.

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***Presidency and Council of  
the ECPD International  
Postgraduate Studies***



Taking into account its responsibility for high-quality education of jurists, especially in the countries of South-Eastern Europe, the Academic Council of the European Center for Peace and Development, with its seat in Paris, has appointed the Council of the ECPD Postgraduate Studies in Law of the European Union and International Business Law, consisting of competent researchers and public figures from Austria, France, Germany, Denmark, Hungary, Italy, the Russian Federation, Serbia, Montenegro, Switzerland, the United States of America and United Kingdom.

The Council plans educational programmes on the basis of its conviction that education is the basic investment in a country's overall technological, economic and social development, especially in view of strong tendencies towards the globalization of the world economy and increasingly stiffer competition on the international market. The task of the Council is to consider and propose to the **ECPD Academic Council** and **ECPD Scientific and Educational Council** the curricula, teaching schedule and place for the conduct of lectures, as well as other elements relevant for the quality of educational processes. The Council establishes relations with international, regional and national governmental and non-government organizations, as well as with the faculties enjoying a world reputation in this area.

## **1. PRESIDENCY AND ADMINISTRATION**

Members of the Board of Programme Directors are **Angelo Faria**, Secretary-General of UNIDROIT, Rome, **Prof. Dr. Don Wallace**, President of International Law Institute (ILI), Washington, **Prof. Dr. Boris Cizelj**, President of SBRA, Brussels, **Dr. Jernej Sekolec**, former Secretary General of UNCITRAL and **Prof. Dr. Reinhard Priebe**, Director for Balkan, European Union Commission, Belgium.

Director of the ECPD / UNIDROIT / ILI International Law School is **Angelo Faria**, Secretary-General of UNIDROIT.

## **2. COUNCIL<sup>1</sup>**

|                           |            |
|---------------------------|------------|
| Wallace Don Jr, President | Washington |
| Sir Roy Goode             | Oxford     |
| Basedow Jürgen            | Hamburg    |
| Beraudo Paul              | Paris      |
| Bonell Michael J.         | Rome       |
| Bussani Mario             | Trieste    |
| Daniele Luigi             | Trieste    |
| Horvath Eva               | Budapest   |
| Kronke Herbert            | Heidelberg |
| Lebedev Sergei            | Moscow     |
| Sekolec Jernej            | Vienna     |
| Stanford Martin           | Rome       |

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<sup>1</sup>

***Methods of instruction,  
admission, duration,  
tuition fees, diplomas***

### ***1. The Basic Forms of Postgraduate Education in the Law of the European Union and International Business Law***

Following the practice of the best-known law schools in the world, the ECPD provides the following forms of education:

- **Postgraduate Programme at a master's level – *M.A. in Law***
- **Programme of specialist seminars and lectures in the area of law of the European Union and international business law, lasting from a couple of days to several weeks.**

Regardless of the form of education, the ECPD tries to meet the strict requirements of legal practice with each of its programmes and training of jurists, thus contributing to economic and social development.

### ***2. Forms of Instruction***

Apart from lectures, in which emphasis will be laid on the problem-oriented presentation of the topic and its learning through teacher-student communication, the didactic process will include:

- **Exercises, which will be held by a teacher or his/her assistant, during which the topics of the lectures and assigned readings will be discussed in detail;**
- **Seminar papers, with the presentation and defence of the methods employed and results achieved;**
- **Presentation of »cases« by teachers and visiting experts-consultants;**
- **Round tables on the selected subject areas, with the participation of teachers and other relevant experts, both domestic and foreign.**

### ***3. Teaching Methods***

In carrying out its programme of instruction in the area of law of the European Union and international business law, the ECPD applies the basic teaching methods, such as:

- Traditional lectures;
- Case studies;
- Work on individual projects;
- Team work on projects;
- Autonomous learning and the study of broader literature.

The ECPD International Postgraduate Studies in Law of the European Union and International Business Law employs all these forms, although traditional teaching and individual work are still dominant as a part of culture and tradition in the region of South-East Europe. In the coming period, an attempt will be made to include case studies from domestic and foreign practice, work on projects and teamwork into teaching methods.

### ***4. Duration of Studies***

**Postgraduate studies at master's levels last four semesters.** The total length of time to be devoted to lectures, exercises and other forms of didactic work has been determined in accordance with the Charter and Statute of the United Nations University for Peace, as well as the ECPD Statute.

**Specialist's studies** are organized in the function of user requests. The subjects are conceived in accordance with the field of study and offer specialized knowledge necessary for professional work.

**Tailor-made seminars** cover special areas or the areas requested by students.

**Specialized lectures** are conducted in accordance with the programme of the ECPD forum devoted to a global view on the development of the world.

### **5. Admission Requirements**

Postgraduate studies can be attended by the candidates having a degree in legal, economic, political, organizational, sociological and philosophical sciences. The candidates will be selected on the basis of the results of their previous studies and personal interviews. The studies are also open to the graduate students of other faculties if they pass the exams in the subjects that will be determined on the basis of the programmes of undergraduate studies, in accordance with the Statutes of the ECPD and United Nations University for Peace. The candidates must be fluent in English, which has to be confirmed by a certificate from a competent school. The candidates may produce such a certificate by the end of the second semester.

### **6. Schedule of Lectures**

The schedule of lectures is determined in such a way to suite the students' need. Lectures on Master's Studies are held every second weekend Friday afternoon and Saturday, or Saturday and Sunday morning. Lectures on Specialist's Studies and Seminars are organized in accordance with the agreement with beneficiaries.

### **7. Final Paper and a Diploma**

Prior to defending a specialist or master's thesis, the candidate must pass the exams in all anticipated subjects.

The procedure of application, assessment, carrying out and defence of specialist's or master's thesis is regulated by the Rules on the ECPD International Postgraduate Studies.<sup>2</sup>

The final papers are submitted to the administrative body of the School upon approval of the mentor. The oral defence will be organized within two months upon submission of the final paper at the latest.

After meeting all other obligations, the student will receive the **diploma of the European Center for Peace and Development (ECPD) and the International Institute for the Unification of Private Law (UNIDROIT)**.

### **8. Teachers**

The core of the teaching staff of the ECPD International Postgraduate Studies of Law of the European Union and International Business Law is consisted of permanently engaged renown legal experts, professors at worldwide known universities of Europe and USA and officials of international organizations, as well as Serbia and Montenegro's professors of universities and recognized legal experts in the European Union and International Business Law<sup>3</sup>, selected in accordance with the academic standards and the Charter and Statute of the United Nations University for Peace.

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<sup>2</sup> The Rules of the ECPD International postgraduate studies can be found in the Appendix.

<sup>3</sup> The list and CV-s of teachers can be found in the Appendix.

### ***9. ECPD System of Education- Guarantee of High-Quality Knowledge and Skills***

In view of increasingly radical social and economic changes, the volume and quality of knowledge and skills are the basic criteria used by successful companies in the world when selecting their jurists.

Proceeding from the key role of personnel training for a successful market transformation, the ECPD put the quality of teaching at the top of its priority list.

**The motto of the European Center for Peace and Development (ECPD) is that its postgraduate studies should become and remain the real schools of excellence.**



*Classroom work*

### ***10. Tuition Fees***

The tuition fee for specialist's and master's studies is fixed in euros and payable in foreign currency (USD, EUR) or in its dinar equivalent on the day of payment at the market exchange rate. The tuition fee for one semester is EUR 1,950 and has to be paid at the beginning of the semester. Money will not be given back if the student interrupts his/her studies.

The application of the master's thesis and topic evaluation amount to EUR 850, and evaluation of the paper and the defence of a master's thesis amount to EUR 1,250.

***Curriculum for International  
Postgraduate Studies of the  
Law of the European Union  
and International Business Law***

The curriculum of ECPD International Postgraduate Studies of the law of the European Union and international business law includes the following subjects:

## **TEACHING SUBJECTS**

### **FIRST PART – EUROPEAN UNION AND COMMUNITY LAW**

#### **I . THE EUROPEAN UNION**

- 1) Philosophy of Integration*
- 2) History of the European Union Integration Process*
- 3) Present day results of Integration*
- 4) EU Institutions and their functions*
- 5) The Community Legal Order*
- 6) Position of Community Law towards National Law*
- 7) Case Study: European Monetary Union*

#### **II. COMMUNITY LAW**

- 1) Acquis communautaire and the Key Common Policies*
- 2) Eurofunding*
- 3) EU decision-making process*
- 4) Comitology*
- 5) EU Lobbying and Negotiations Process*
- 6) EU Information Sources*

### **SECOND PART - INTERNATIONAL BUSINESS LAW**

#### **I. SOURCES OF LAW, LEGAL PHILOSOPHY AND NATURAL LAW**

- 1) Sources of Law*
- 2) Legal Philosophy*
- 3) Natural Law*

#### **II. GREAT LEGAL SYSTEMS**

- 1) Common Law*
- 2) Civil Law*
- 3) Differences between Civil and Common Law*

#### **III. INTERNATIONAL ORGANIZATIONS IN THE FIELD OF INTERNATIONAL BUSSINESS LAW**

#### **IV. INTERNATIONAL COMPANY LAW**

- 1) European Company Law*
- 2) EU Competition Law*
- 3) Status of Public Companies in EU*
- 4) EU Insolvency Law and UNCITRAL Model Law on Cross-border Insolvency*

#### **V. INTERNATIONAL CONTRACT LAW**

- A) Principles of International Commercial Contracts
  - 1) UNIDROIT Principles of International Commercial Contracts*
  - 2) Principles of European Contract Law*

B) International Sale of Goods

- 1) *Contract for the International Sale of Goods*
- 2) *Electronic Commerce*
- 3) *Contract for the Inspection of Goods*

C) International Transport of Goods

- 1) *Contract for Transport of Goods*
- 2) *International Conventions and Rules Regulating Transport*

**VI. INTERNATIONAL CONTRACTS FOR FINANCING AND CONSTRUCTION OF PROJECTS**

- 1) *Contract for the Performance of Capital Works Abroad*
- 2) *Consulting Contract*
- 3) *Privately Financed Infrastructure Projects (According to the BOT System)*

**VII. INTERNATIONAL CONTRACTS FOR INVESTMENT AND TRANSFER OF CAPITAL**

- 1) *International Financial Leasing*
- 2) *International Franchising*
- 3) *Concession Agreement*
- 4) *Joint Venture Contract*

**VIII. LAW OF INTERNATIONAL PAYMENTS**

**IX. INTERNATIONAL INTELLECTUAL PROPERTY LAW**

**X. LAW OF INTERNATIONAL INSURANCE AND COMMERCIAL ARBITRATION**

- 1) *Law of Insurance in International Business Transaction*
- 2) *International Commercial Arbitration*

**SUBJECTS OF GENERAL IMPORTANCE**

1. METHODOLOGY OF SCIENTIFIC RESEARCH
2. ENGLISH FOR LAWYERS
3. INFORMATICS FOR LAWYERS

The lectures in the subject "Sources of law, legal philosophy and natural law" have been placed at the beginning of the studies so as to acquaint students, some of which have not studied law, with basic notions about law and with essential human rights, which survived throughout centuries until they became the core of contemporary international law.

Throughout the lectures in the subject "Great legal systems" the students will be acquainted with the characteristics of the two basic legal systems in the world: Anglo-Saxon or common law and continental or civil law. Since the differences between these two systems can be noticed in almost every issue in the international business law, the lecturers will point out the existing ones and explain the way in which they were overcome in adopting conventions and other sources of international law.

Although the view that the law of the European Union cannot be distinguished as a separate legal system is still disputed, its importance to the European countries and its specifics justify the inclusion of this subject into the curriculum. This is all the more important, keeping in



mind that in the upcoming period all the countries in the region of East Europe will have to harmonise their legal systems with the law of the European Union.

Topics relating to the most important legal issues of international business are included in the second part of the studies. Students will learn about the international and European Union law which govern establishment, operation and termination of companies in the international context, and the conclusion, execution and termination of contracts, as well as specific contracts important for the international transfer of goods and services - contracts for the international sale of goods, transport of goods, construction, execution of infrastructure projects, leasing, franchising, concession and joint ventures. Finally, students will be acquainted with the issues relevant to successful realization of international contracts, such as means of payment and insurance of payment, insurance of international transactions, intellectual property and international arbitration.

When making the curriculum, the ECPD took into account the specific needs of the contemporary international business. Nowadays, the significant part of international business transactions is realised through the electronic media and business partners communicate mostly in English. Aiming to enable its students to participate actively in the international business once they finish the ECPD Postgraduate Studies, the ECPD decided to include the lectures in "English for lawyers" and "Informatics for lawyers" into the curriculum.

Lessons in "Methodology of scientific research" are important for the successful elaboration of the master's thesis and the future independent work of students who wish to continue their education and obtain a doctorate.

Since the ECPD maintains close relations with prominent jurists, international organisations and legal institutions in other countries, it is possible to organise visits of students to these organisations within the scope of their training, in addition to tuition in the country. Depending on the interest of students, the following study trips can be organised: to the seat of the European Union in Brussels, to the headquarters of the United Nations Commission for International Trade Law (UNCITRAL) in Vienna, to the International Institute for the Unification of Private Law (UNIDROIT) in Rome, to the World Trade Organisation (WTO), the World Intellectual Property Organisation (WIPO), the UN Economic Commission for Europe (UN ECE), as well as the CEFACT, an ECE agency working on necessary standards for electronic commerce, which are seated in Geneva. Finally, a study trip to Paris that aims to introduce students with the work of the International Chamber of Commerce (ICC) and its arbitration.

|                                    |   |  |
|------------------------------------|---|--|
| <b>ECPD</b><br><br><b>UNIDROIT</b> | <i>International<br/>Postgraduate<br/>Studies</i> | <b>CURRICULUM<br/>EUROPEAN UNION,<br/>COMMUNITY LAW AND<br/>INTERNATIONAL<br/>BUSINESS LAW</b> |
|------------------------------------|---|--|

| <i>FIRST / SECOND<br/>SEMESTER</i>   | number of hours |                      |
|--|-----------------|----------------------|
|  | per<br>subject  | per<br>academic year |
| 1. <b>The European Union and Community Law, module I</b>                         | 30+10           | <b>335</b>           |
| 2. <b>The European Union and Community Law, module II</b>                        | 20+10           |                      |
| 3. <b>Sources of law, legal philosophy and natural law</b>                       | 10+0            |                      |
| 4. <b>Great legal systems</b>  | 15+15           |                      |
| 5. <b>International organisations in the field of international business law</b> | 20+15           |                      |
| 6. <b>International company law</b>  | 20+15           |                      |
| 7. <b>English for lawyers I</b>  | 30+0            |                      |
| 8. <b>Informatics for lawyers I</b>  | 20+0            |                      |

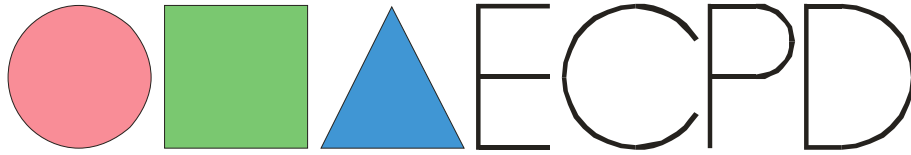
|                                    |   |  |
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| <b>ECPD</b><br><br><b>UNIDROIT</b> | <i>International<br/>Postgraduate<br/>Studies</i> | <b>CURRICULUM<br/>EUROPEAN UNION,<br/>COMMUNITY LAW AND<br/>INTERNATIONAL<br/>BUSINESS LAW</b> |
|------------------------------------|---|--|

| <i>FIRST / SECOND<br/>SEMESTER</i>  | number of hours              |                      |
|---|------------------------------|----------------------|
|   | per<br>subject               | per<br>academic year |
| <b>International Contract Law</b><br><br><b>9. A) Principles of international commercial contracts</b><br><br><b>B) International sale of goods</b><br><br><b>C) International transport of goods</b> | 30+0<br><br>30+0<br><br>30+0 | <b>335</b>           |
| <b>10. International contracts for financing and construction of projects</b>   | 15+10                        |                      |
| <b>11. International contracts for investment and transfer of capital</b>   | 15+10                        |                      |
| <b>English for lawyers II</b>   | 20+0                         |                      |
|   | hours/year                   |                      |
|   |                              | <b>335</b>           |

|                                    |  |  |
|------------------------------------|--|--|
| <b>ECPD</b><br><br><b>UNIDROIT</b> | <i>International<br/>Postgraduate<br/>Studies - Law of the<br/>European Union<br/>and International<br/>Business Law</i> | <b>CURRICULUM</b><br><b>LAW OF THE EUROPEAN<br/>UNION AND INTERNATIONAL<br/>BUSINESS LAW</b> |
|------------------------------------|--|--|

| <i>THIRD / FOURTH<br/>SEMESTER</i> |  | number of hours |                      |
|------------------------------------|--|-----------------|----------------------|
|                                    |  | per<br>subject  | per<br>academic year |
| <b>12.</b>                         | <b>Law of international payments</b>                             | 20 + 15         | <b>695</b>           |
| <b>13.</b>                         | <b>International law of intellectual property</b>                | 20 + 15         |                      |
| <b>14.</b>                         | <b>Law of international insurance and commercial arbitration</b> | 20 + 15         |                      |

| <b>ECPD<br/>UNIDROIT</b>           |   | <i>International Postgraduate<br/>Studies</i> |                      | <b>CURRICULUM<br/>LAW OF THE EUROPEAN<br/>UNION AND INTERNATIONAL<br/>BUSINESS LAW</b> |  |
|------------------------------------|---|---|----------------------|--|--|
| <i>THIRD / FOURTH<br/>SEMESTER</i> |   | number of hours                               |                      |  |  |
|                                    |   | per<br>subject                                | per<br>academic year |  |  |
| <b>15.</b>                         | <b>Scientific research methodology</b>  | 30+20   | <b>695</b>           |  |  |
| *                                  | <b>Active learning and individual work</b>  | 200   |                      |  |  |
| *                                  | <b>Preparation for a master's thesis<br/>(individual work and consultancy)</b>                              | 280   |                      |  |  |
| *                                  | <b>Specialized study trips for the cycle of<br/>seminars in the subject area covered by the<br/>studies</b> | 60  |                      |  |  |
|                                    |   | hours/year                                    | <b>695</b>           |  |  |
|                                    |   | <b>Σ - I / II / III / IV</b>                  | <b>1.030</b>         |  |  |



# **First part: THE EUROPEAN UNION AND COMMUNITY LAW**

## **I. EUROPEAN UNION**

### **A. HISTORY AND INSTITUTIONS**

#### ***1. History of the European Union***

The European Union (EU) is a sui generis political body, made up of twenty-seven member states. It was established in 1993 by the Treaty on European Union (The Maastricht Treaty) and is the de facto successor to the six-member European Economic Community founded in 1957. Since the establishment in 1993, new accessions have raised its number of member states, and competences have expanded. As a result, the EU can be described as both a supranational and intergovernmental body.

Currently, accession negotiations are underway with several states. The process of enlargement is sometimes referred to as European integration. However, this term is also used to refer to the intensification of cooperation between EU member states as national governments allow for the gradual centralising of power within European institutions.

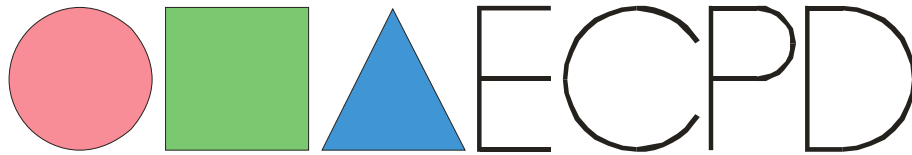
In order to join the European Union, a state needs to fulfill the economic and political conditions generally known as the Copenhagen criteria (after the Copenhagen summit in June 1993). That requires a secular, democratic government, rule of law and corresponding freedoms and institutions. According to the EU Treaty, each current member state and also the European Parliament have to agree to any enlargement.

The present Lisbon Treaty - coming into force in December 2009 - provides for the voting arrangements to be adopted for more than the present 27 members. It was a long process of debate among EU member states, and the new European Constitution Has first been rejected at referenda in France, the Netherlands, and Ireland, and finally ratification was approved in October 2009.

Although still a lengthy document (the consolidated version has over 300 pages) this Treaty has unified and simplified the existing treaties, annexes, and protocols – making it a more consistent and transparent legal document.

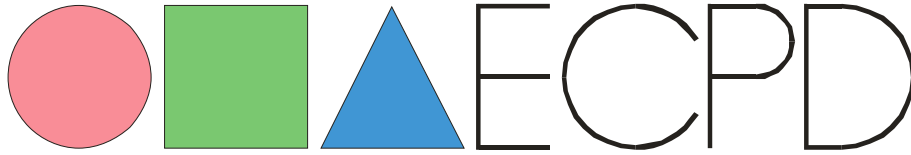
How the European Union will change with the Lisbon Treaty:

1. The European Council becomes a formal EU institution – its role is to provide the EU with a political motor, driving forward its activities and defining its political goals. It



will have an independent President , appointed by the presidents and prime ministers of the Member States for a term of office of two-and-a-half years, renewable once. The president will act as a consensus-builder and ‘umpire’ among these leaders.

2. The European Parliament becomes an equal co-legislator with the Council of Ministers in the vast majority of cases. This applies notably to EU laws in the area of judicial and police cooperation and adoption of the EU budget.
3. The European Parliament will increase in size to 751 members. Although this change does not affect Ireland, it is important for a number of countries, such as Spain and Malta.
4. Some EU competences (which are national powers delegated to the EU institutions but adopted by national governments and, where appropriate, by the European Parliament) are expanded, meaning the EU can work in a wider range of areas than before. This applies, for example, to international trade, energy policy, judicial and police cooperation, innovation policy and tourism.
5. The EU’s foreign policy is given new institutions in an attempt to make it more coherent and relevant on the world stage. To this end, a High Representative of the Union for Foreign Affairs and Security Policy is created; a post which is based both in the Council of Ministers and in the European Commission so that EU foreign policy can become more coherent. To support the work of the High Representative, a network of EU ‘embassies’ will be created across the globe, called the European External Action Service (EEAS). The EEAS will be staffed by national diplomats, staff from the European Commission and from the Council of Ministers, in equal proportion.
6. National parliaments will have a greater say in EU affairs, such as a power to contest draft EU laws that are considered unnecessary; a power to block changes from unanimous decision-making to majority decision-making in the Council of Ministers. The job of scrutinising EU activities, however, is something national parliaments will have to organise themselves, and some national parliaments are better at scrutiny than others.
7. The protection of human rights in EU law will be subject to two new texts. First, the EU Charter of Fundamental Rights, which makes EU law subject to the fundamental rights and freedoms shared by all Member States. Second, the EU will join the European Convention on Human Rights (ECHR), which means that all EU institutions and its laws will be subject to the application of the ECHR.
8. European citizens will be able to propose EU laws through an instrument called the Citizens’ Initiative. This instrument, a type of direct democracy, allows at least one million citizens from across the EU Member States to submit proposals to the European Commission.



9. EU defence policy remains subject to national vetoes, except in a limited number of areas such as the decision to create permanent structured cooperation (a type of 'enhanced cooperation' that allows a group of Member States to work closely and share burdens in military matters). The decision to initiate a European defence mission still requires a unanimous decision of national defence ministers.
10. Social protection is present in a number of provisions, not only in the Charter of Fundamental Rights, but also in the protection of services of general interest (i.e. public services), the provision for social dialogue (talks between trade unions and employers' organisations) at EU level, and a number of clauses relating to equality between men and women and the prohibition of discrimination.
11. A new voting system for decision-making among national governments on EU affairs will enter into force in 2014 or 2017 (the date depends on the Member States). The system removes the current 'weighting' of votes, whereby each Member State is given a number of votes. Presently, Ireland has 7 votes and Germany has 29 (the number of votes is based on the size of a country's population). Under the new system, each Member State will have one vote each. For a decision to be passed, two criteria must be met: at least half of the Member States must be in favour of a proposal, and that half must represent at least 65% of the EU's total population.
12. The European Union becomes a single organisation: there will be no more European Community and no more pillar structure; just one organisation.

In 1989, the European Community's Phare program was created. It aimed to provide financial support for potential accession countries so that they could expand and reform their economies. To join the EU an applicant country must meet the following Copenhagen criteria established by the European Council in 1993:

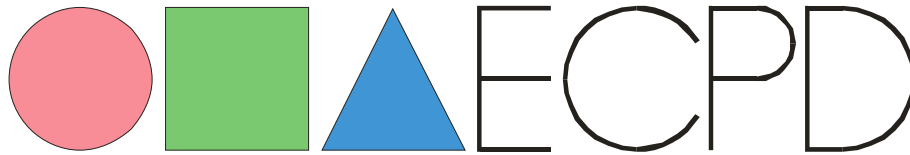
- Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.
- The existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.
- The ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

In December 1995, the Madrid European Council revised the membership criteria to include conditions for member country integration through the appropriate adjustment of its administrative structures: since it is important that European Community legislation be reflected in national legislation, it is critical that the revised national legislation be implemented effectively through appropriate administrative and judicial structures.

The heads of State or government, delegated representatives and the ministers of foreign affairs of the 27 EU member states following the signature of the Treaty of Accession.

It was previously the norm for enlargements to see multiple entrants join the Union at once. The only previous enlargement of a single state was the admission of Greece in 1981.





However, EC members and EU ministers have warned that, following the significant impact of the fifth enlargement in 2004, a more individual approach will be adopted in the future, although the entry of pairs or small groups of countries may yet coincide. Croatia may be expected to join first, possibly in 2011/1012, with Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, and Turkey following, either together or in smaller groups.

The timing of smaller-wave enlargements is subject to many variables and –the procedures take time (for example, it takes at least two years to move from a membership application to the start of negotiations, and again about two years from end of negotiations till the end of accession agreement ratification).

## ***2. Institutions of the European Union***

The European Union is governed by a number of institutions which are laid out in the treaties of the European Union. The structure has remained fairly similar since the Treaties of Rome even though their relationships have changed. In addition to the official institutions there are a number of other bodies and agencies, most of which also have a basis in the treaties.

There are five official institutions. In treaty order, they are:

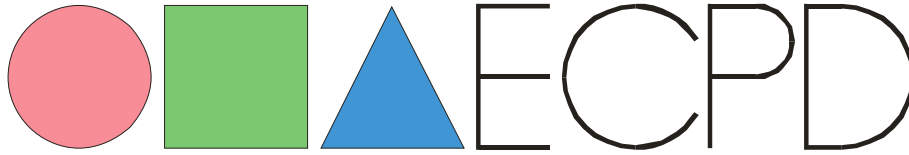
- the European Parliament;
- the Council of the European Union;
- the European Commission;
- the Court of Justice of the European Communities;
- the European Court of Auditors.

### **2.1. The Executive**

The **European Commission** acts as an executive or civil service of sorts. It is currently composed of one member from each state (currently twenty-seven) and is responsible for drafting all proposed law, a duty over which it maintains a monopoly in order to co-ordinate European law, as well as ensuring the treaties are followed (the "Guardian of the Treaties"). It also controls some agencies and the day-to-day running of the Union. Its president is nominated by the European Council then elected by the Parliament.

### **2.2. Legislature**

The **Council of the European Union** (also known as the "Council of Ministers") forms the first half of the Union's legislative branch. It is composed of the national ministers responsible for the area of EU law being addressed; a law regarding agriculture, for example, would go to a Council composed of national agriculture ministers. As a result the body primarily represents the national interest of member-states. The institution's presidency rotates between the member states every six months; to provide continuity, every three presidencies co-operate on a



common agenda. This body should not to be confused with the European Council below or the non-EU Council of Europe.

The **European Parliament** is the directly elected parliamentary institution of the European Union (EU). Together with the Council of the European Union (the Council), it forms the bicameral legislative branch of the EU and has been described as one of the most powerful legislatures in the world. The Parliament and Council form the highest legislative body within the Union. The Parliament is composed of 736 MEPs (Member of the European Parliament), who serve the second largest democratic electorate in the world (after India) and the largest trans-national democratic electorate in the world (375 million eligible voters in 2009).

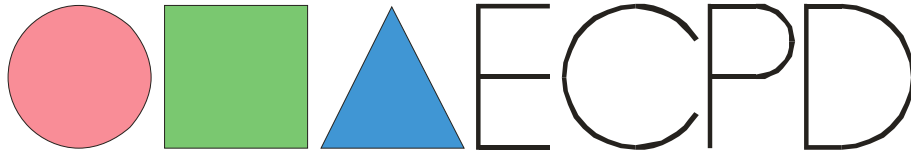
It has been directly elected every five years by universal suffrage since 1979. Although the European Parliament has legislative power that such bodies as those above do not possess, it does not have legislative initiative, as most national EU parliaments do (however, it does have it in a *de facto* capacity. The Parliament is the "first institution" of the EU (mentioned first in the treaties, having ceremonial precedence over all authority at European level), and shares equal legislative and budgetary powers with the Council (except a few areas where the special legislative procedures apply). It likewise has equal control over the EU budget. Finally, the European Commission, the executive body of the EU, is accountable to Parliament: in particular Parliament can veto it and its President and can force the body to resign.

The President of the European Parliament (Parliament's speaker) is currently Jerzy Buzek (EPP), elected in July 2009. He presides over a multi-party chamber, the two largest groups being the European People's Party (EPP) and the Progressive Alliance of Socialists and Democrats (S&D). The last Union-wide elections were the 2009 Parliamentary Elections. Parliament has two meeting places, namely the Louise Weiss building in Strasbourg, France, which serves for twelve four-day plenary sessions per year and is the official seat, and the Espace Léopold complex in Brussels, Belgium, the larger of the two, which serves for committee meetings, political groups and complementary plenary sessions. The Secretariat of the European Parliament, the Parliament's administrative body, is based in Luxembourg.

### 2.3. Judiciary

The judicial branch of the Union consists primarily of the **Court of Justice of the European Communities**, the supreme court of the Union, higher than national supreme courts. The institution is composed of one judge nominated by each member-state, with the president elected from among those nominees, and eight advocate generals who together ensure European law and treaties are interpreted in a uniform way. It should not to be confused with the non-EU European Court of Human Rights.

Below the Court of Justice there is a lower court called the **Court of First Instance** created to lift some of the work load of the Court of Justice. It consists of twenty-seven members, including its president. There is also an eight-judge **Civil Service Tribunal** including a president. The tribunal deals with discipline among European civil servants.



Outside the Court of Justice, the **European Court of Auditors** monitors the Union's accounts.

## **2.4. Other major bodies**

### *2.4.1. European Council*

Another major body of the Union is the **European Council**, known informally as the "European Summit". Although with no specific authority and not currently recognized as an official institution, the Council is seen as the supreme political body of the Union as it tends to guide the Union's policy-making. It is composed of the member states' heads of state or government and the President of the European Commission and meets four times a year, in Brussels and once at the venue in the Presiding country.

### *2.4.2. Financial bodies*

The **European Central Bank** controls monetary policy within the Eurozone and is the key financial institution whose duty is to ensure price stability. Its independence means there is little control over it from the institutions; however, its governing board does contain the governors of all Eurozone national central banks. It is at the centre of the European System of Central Banks which comprises all EU national banks. Its president is appointed by the European Council.

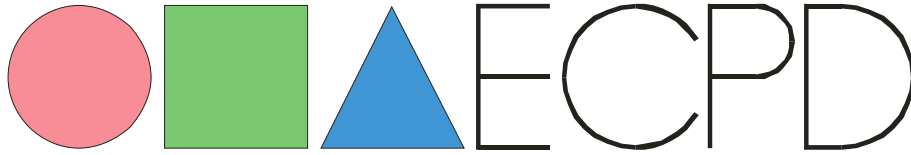
The Union's financing institution is the **European Investment Bank**, providing capital for projects within European policy objectives. Its board of governors is composed of the twenty-seven national finance ministers.

### *2.4.3. Advisory bodies*

There are also two advisory committees to the institutions:

- The **European Economic and Social Committee** advises on economic and social policy (principally relations between workers and employers) being made up of representatives of various industries and work sectors. Its 344 members, appointed by the Council for four-year terms, are organised into three fairly equal groups representing employers, employees and other various interests.
- The **Committee of the Regions** is composed of representative of regional and local authorities who hold an electoral mandate. It advises on regional issues. It has 344 members appointed every four years by the Council. Member are organised in political groups and have the president. Although it has no powers of its own it must be consulted by the Council and Commission on various matters.

## **2.5. Locations of the institutions**



There is no official “capital city of the European Union”, with institutions spread across a number of cities. Though with most concentrated in Brussels, that city is often considered the *de facto* capital of the Union. The seats of the institutions and some other bodies are guaranteed by the treaties. **Brussels** is the seat of the European Commission (staff of about 23,000) and the Council of the European Union. The European Parliament also has its second seat in the city, being the venue for its committee meetings and mini-sessions. In addition it hosts nearly all European Council summits, the Committee of the Regions, the Economic and Social Committee and numerous agencies of the Union (including the European Defence Agency and EUROCONTROL) as well as being the headquarters for non-EU institutions such as NATO and the WEU. As a result of this concentration, most representation towards the Union is in the city and it is the favoured city for any move towards a single “capital”.

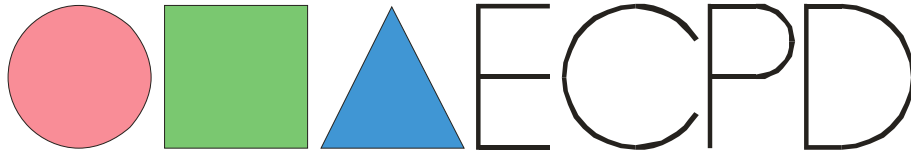
**Luxembourg City** is the Union’s *de facto* judicial capital housing all the Union’s courts; the European Court of Justice (incorporating the Court of First Instance) and the European Court of Auditors. It also plays host to the European Investment Bank and the Secretariat of the European Parliament, though the Parliament hasn’t met in the city for decades (but the hemicycle still exists).

**Strasbourg** is the official seat of the European Parliament, meeting there for twelve week-long plenary sessions each year. Because this is the official, and most iconic seat, the Parliament is sometimes known as the “Strasbourg Assembly”. However due to the costs of the two seats there is a strong movement to abandon this seat, however the movement is being blocked by the host nation, France. The city also hosts the headquarters of the non-EU bodies; the Council of Europe and the European Court of Human Rights.

Agencies and bodies are divided among the member states; for example, Frankfurt, as the largest financial centre in the Eurozone, hosts the Central Bank, while The Hague hosts Europol. Since the 2004 enlargement, there has been a drive to put more agencies in the new member-states to make a more equal distribution. However some problems have been encountered with this, for example; Frontex, the new border agency, has had problems recruiting skilled experts because many do not want to live in the agency’s host city, Warsaw, due to its relatively low wages and standard of living. In addition, plans to place the headquarters of Galileo in Prague has met with opposition over security concerns that the city would not be safe enough for such a sensitive agency.

## ***2.6 Institutional changes***

The European Constitution is currently stalled in ratification, but the institutional amendments it includes are expected to remain in whatever treaty replaces it. In its current state, the European Council will become an official institution, the Court of Auditors will be made obsolete, the Council of the European Union will become the “Council of Ministers”, and the Court of Justice of the European Communities will be renamed as the “Court of Justice of the European Union”.



The Constitution also states that the EU's institutional framework shall aim to promote the Union's values; advance its objectives; serve its citizens' interests and those of member states; and ensure the consistency, effectiveness and continuity of EU policies and actions.

## **B. ECONOMIC QUESTIONS**

### ***1. Comitology***

The word "Comitology" is used for all these bodies, but *stricto sensu* it refers only to committees established by the European Commission, are being chaired by the Commission, and are involved only in the executive matters (not regulatory, monitoring or regulatory matters).

Annually some 250 directives are adopted by the key institutions, however the number of executive acts adopted by the various committees goes into thousands.

The executive acts fall under the category of secondary European legislation. They are adopted by the respective committees by authority of the Council and define the details needed to implement the acts adopted by the Council.

Committees are composed by representatives of member states (officials or experts nominated by their respective government), and play an important role in preparation of legislation, in its implementation, and monitoring, as well as in drafting rules of implementation of primary European legislation.

There are 188 permanent committees, divided into the following 3 groups:

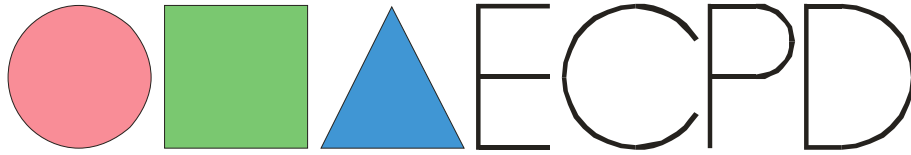
- (a) 97 Regulatory Committees (issuing decisions and adopting executive regulations);
- (b) 61 Management Committees (managing agricultural markets);
- (c) 30 Advisory Committees (issuing non-mandatory recommendations).

The procedures that determine the relationship between the Commission and the committees are based on a Council of the European Union decision from 1999. on procedures for the exercise of implementing powers conferred on the Commission.

The register in general contains the following types of documents:

- agendas of committee meetings,
- draft implementing measures,
- summary records of committee meetings,
- voting results of opinions delivered by a committee.

In 2006 an amendment was made to the 1999 Comitology Decision, after concern that there was a substantial democratic deficit in the process of comitology due to the almost non-existent part played by the European Parliament (which is the most democratic of the



institutions within the EU). Council Decision 2006/512/EC set up a new procedure which could be used in delegated decision-making. It introduced the Regulatory Procedure with Scrutiny which could be used on non-essential elements of a basic instrument which was adopted under the co-decision procedure (a primary legislative procedure). Essentially it gives the European Parliament an opportunity to oppose and block proposals if it exceeds the implementing powers given by the primary legislation, it's incompatible with the aim or content of the primary instrument, or if it is in conflict with the central principles of subsidiarity or proportionality. By giving the European Parliament a greater say in delegated decision-making it has helped to reduce the democratic deficit within the EU.

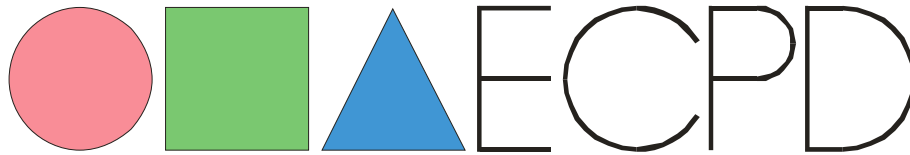
In accordance with Article 202 of the Treaty establishing the European Community (ECT), it is for the Commission to implement legislation at Community level. In practice, each legislative instrument specifies the scope of the implementing powers conferred on the Commission by the Council of the European Union. In this context, the Treaty provides for the Commission to be assisted by a committee, in line with a procedure known as "comitology".

The committees are the fora for discussion, consist of representatives from Member States and are chaired by the Commission – unless created by the Council (then the presiding country chairs the committee). The committees enable the Commission to establish a dialogue with national administrations before adopting implementing measures. The Commission ensures that measures reflect as far as possible the situation in each of the countries concerned.

Relations between the Commission and the committees are based on models set out in a Council Decision (the "Comitology Decision"), which gives Parliament the right to monitor the implementation of legislative instruments adopted under the co-decision procedure. Parliament can object to measures proposed by the Commission or, as the case may be, the Council if it considers them to be *ultra vires*.

According to their *modus operandi* the following categories of committees can be distinguished:

- Advisory committees: these give their opinions to the Commission, which must try to take account of them.
- Management committees: if the measures adopted by the Commission are not in accordance with the committee's opinion, the Commission must refer them to the Council, which, within a period laid down by the basic act, may adopt a different decision by a qualified majority.
- Regulatory committees: if the measures envisaged by the Commission are not in accordance with the committee's opinion, the Commission must refer them to the Council and, for information, to the European Parliament. The Council may give its agreement by a qualified majority or introduce an amendment by unanimity, within a period laid down by the basic act, which may not exceed three months. If the Council does not take a decision, the Commission draws up implementing measures, unless the Council opposes this by a qualified majority. In the latter case the Commission may submit an amended proposal or a new proposal or may re-submit the same proposal.
- Regulatory committees with scrutiny: these must allow the Council and the European Parliament to carry out a check prior to the adoption of measures of general scope designed



to amend non-essential elements of an act adopted by codecision. In the event of clear opposition on the part of one of these institutions (absolute majority of MEPs or qualified majority at the Council), the Commission must either adopt the proposed measure, including any amendments to take account of the comments made, or present a legislative proposal to be submitted for the co-decision procedure.

## **2. Eurofunding**

The funding function of the Union is implemented within the following categories:

- (a) Policy of Cohesion (Structural and Cohesion Funds)
- (b) Common Agricultural Policy
- (c) Community Programmes and Initiatives
- (d) Pre-Accession Assistance
- (e) Development Assistance

**Structural Funds and Cohesion Funds** are funds allocated by the European Union for two related purposes, firstly support for the poorer regions of Europe, and, secondly, support for integrating European infrastructure especially in the transport sector. The last programmes ran from 1 January 2000 to 31 December 2006, with €54.4 billion budget for Structural Funds, and €18bn for the Cohesion Fund (32% of EU budget). The current programme - running from 2007 to 2013 - went up to 35.7% of the total EU budget. It is influenced by the Lisbon Agenda and is devoting 8.4% for the objective of increasing competitiveness.

Together with the Common Agricultural Policy, the structural and cohesion funds make up the great bulk of EU funding, and the majority of total EU spending (about 80% of the EU budget).

### **2.1. Objectives**

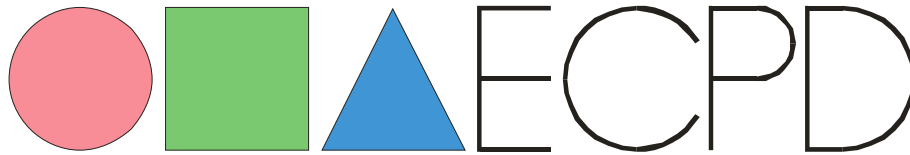
Under the Structural Funds there are three objectives:

- Objective 1: promoting the development and structural adjustment of regions whose development is lagging behind;
- Objective 2: supporting the economic and social conversion of areas facing structural difficulties;
- Objective 3: supporting the adaptation and modernisation of policies and systems of education, training and employment.

These objectives are met through four major funds:

1. European Regional Development Fund (ERDF)
2. European Social Fund (ESF)
3. Financial Instruments for Fisheries Guidance (FIFG)
4. European Agricultural Guidance and Guarantee Fund (EAGGF)





## 2.2. Main EU funds

**European Agricultural Guidance and Guarantee Fund (EAGGF):** The EAGGF finances the European common agricultural policy. Its purpose is to provide market support and promote structural adjustments in agriculture and encourage sustainable rural development. The EAGGF is divided into two sections: the Guarantee Section finances price support measures and export refunds to guarantee farmers stable prices, while the Guidance Section grants subsidies for rationalization schemes, modernization and structural improvements in farming.

**European Regional Development Fund (ERDF):** The ERDF is intended to help reduce imbalances between regions of the Community. The Fund was set up in 1975 and grants financial assistance for development projects in the poorer regions. In terms of financial resources, the ERDF is by far the largest of the EU's Structural Funds.

**European Social Fund (ESF):** Established in 1960, the ESF is the main instrument of Community social policy. It provides financial assistance for vocational training, retraining and job-creation schemes. Around 75% of the funding approved goes towards combating youth unemployment. With the increase in budget resources, changes were made in the Social Fund and the focus moved to the new goals of improving the functioning of the labour markets and helping to reintegrate unemployed people into working life. Further action will tackle equal opportunities, helping workers adapt to industrial change and changes in production systems.

The most important among the Community Programmes is the **7<sup>th</sup> Framework Programme for Research and Development** (FP7 has a budget of 56 billion € for the period of 2007-2013). It supports development of new technologies, development of skills and exchange of researchers, application of innovation by small and medium companies, collaborative research, support to research excellence, and dissemination of good practice in all areas of knowledge society.

Another important programme is “**Competitiveness and Innovation Programme**” (2007-2013 budget of 3.8 billion €). This is a new Community Programme influenced by the objectives of Lisbon Agenda, which needs additional support at European level.

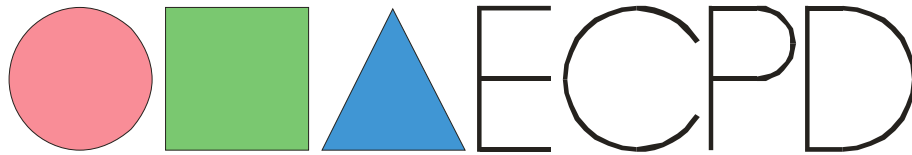
The **Pre-Accession Funding** is available to countries preparing for EU membership. In the period 2000-2006 that was distributed among the 12 countries – new members, and 2 candidates: Croatia, and Turkey. This amounted to 3% of EU budget and in the current financial period this will be less. For Western Balkans the CARDS Programmes is being replaced in 2007 by **Instrument for Pre-Accession Assistance – IPA**.

## 3. Lobbying and Negotiating Processes

### 3.1. The Lobbying Phenomenon and EU

As a consequence of EU reaching the stage of internal market, by mid 1980s, Brussels has gradually become the world lobbying capital. The reasons are obvious: at the stage of European integration when most of economic decisions were transferred from member states





to EU institutions, it became necessary for business interests to be represented and influence the decisions in Brussels. Although there are about 3,000 lobbying organizations currently active in Brussels and some 16,500 lobbyists working there, one has to establish that lobbying still carries a negative connotation in Europe, as opposed to the United States, where lobbying has a much longer tradition and a more neutral character.

The principle feature, distinguishing national and EU lobbying is the emphasis on political versus substantive arguments. In other words, in Brussels lobbying cannot rely on political influence (alone) – it can be successful only when supported by credible and sustainable evidence and professional analysis of the respective problem.

### ***3.2. The Role of EU Lobbies***

The decision making process in EU makes provisions for representatives of various interests to be involved in the preparations and discussions on new regulation, and lobbyists are actually welcome.

Lobbyists enjoy rather free access to decisions makers (Council, Commission, European Parliament, and other bodies) being considered as legitimate representatives of various stakeholders. By emphasizing the viewpoints of their clients, the lobbyists contribute to the quality of the legislative acts which should be accepted and duly implemented by the various stakeholders.

The targets of EU lobbyists are specifically the following:

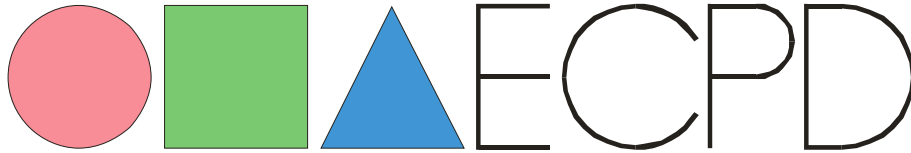
- influence the development of European legislation;
- help clients in their cases being considered by EU bodies and Comitology;
- media management;
- help clients with Eurofunding.

### ***3.3. Typology of EU Lobbyists***

One can distinguish the following types of EU lobbyists:

- European sectoral and professional associations
- Representations of national associations
- Non governmental organizations (NGOs)
- Single issues lobbying organizations (or pressure groups)
- Corporate representation offices
- Trade unions
- Professional lobbyists and consultants
- Brain trusts.

### ***3.4. The Activities of Lobbyists***



Lobbying is defined as influencing decision makers. This activity is performed successfully only by the top professionals with long years of experience in Brussels. However, in preparing the dossiers, the lobbying organizations perform also a range of related activities, which are the domain of younger employees.

These activities are:

- (a) information services (collecting relevant documents and information on the dossier, as well as informing the client);
- (b) research (analysis of documentation and drafting the lobbying strategy);
- (c) briefing and training (preparing the client for their role in the lobbying process);
- (d) influencing the media (informing relevant media in order to win their support for the client's position);
- (e) logistic support to the client (arranging meetings with EU institutions and possible supporters).

### ***3.5. Key Competencies and Tools of Lobbyists***

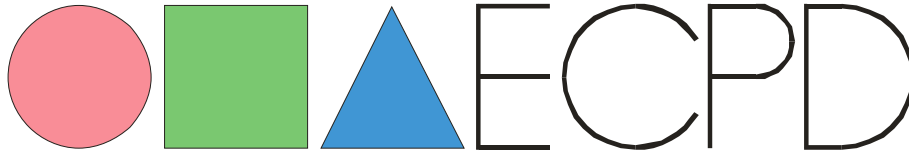
Lobbyists in Brussels have to be well educated, able to communicate in several European languages, and should be strong in contextual intelligence. They have to master a set of complex skills and competencies. They need to be good analysts, communicators, negotiators, coalition builders, and even psychologists. Furthermore, they have to understand the European institutional system and procedures, they need to have good connections in EU institutions, and be recognized as a trustworthy interlocutor. A good lobbyist is also a bit of a diplomat, capable and willing to build compromises acceptable for all involved, and presenting it to the partners in a positive way – helping the process of reaching an agreement.

The EU lobbyist's key tools are:

- written communication (a lot depends on the quality of arguments and their presentation in documents prepared by the lobbyist);
- oral communication (persuasive power of lobbyist is not to be confused with rhetorics);
- ability to influence the media.

### ***3.6. Differences between Good and Poor Lobbyists***

A good lobbyist has a sharp sense for timing, allowing him to act early in a pro-active manner. He prepares the dossier very carefully, and consistently with European legislation and EU policies. His key arguments are in line with public interest, and he managed to get support from some influential media. He mobilizes all possible supporters and like-minded stakeholders, tries to achieve the maximum by proposing acceptable solutions, but is never short of "Plan B" – which is still acceptable to his clients. A poor lobbyist fails to act in good time and reacts in a destructive manner (e.g. energetically rejecting a new regulatory proposal, without offering an acceptable alternative) with poor, mostly "political" arguments. He acts alone, having failed to mobilize possible supporters. His written and oral communication is aggressively confrontational, and no media supports his positions.



### **3.7. Negotiation Techniques**

Lobbying in EU requires knowledge of successful negotiating techniques. These are being thought nowadays in all business schools, diplomatic academies, and in many other social science curricula.

According to competent authors in this area there are the following 7 pillars of negotiating wisdom:

- Relationships - negotiations being a case of social interaction, never forget to contribute to a constructive atmosphere.
- Interests - mapping your priority interests is the key of good preparations, however try to discover also the key interests of your partners.
- BATNA - always keep track of the “Best Alternative to No Agreement”, or as some people call it “your bottom line”.
- Creativity - not even the best strategic scenario can anticipate all events – so maintain an open mind, and be creative.
- Fair Play - generally, honesty is the best policy. Maintaining credibility will encourage your partners to act fairly as well.
- Commitment - demonstrate your sincere commitment to fulfil all points of future agreement .
- Communication - important both during negotiations, as well as afterwards.

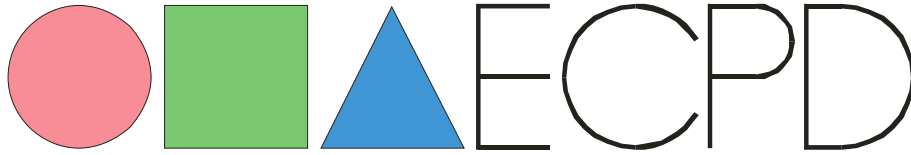
## **II. COMMUNITY LAW**

### **A. LEGAL QUESTIONS**

#### **1. Community law (*Acquis communautaire*)**

The law of the European Union or community law has been inserted, as *sui generis law*, into the traditional dichotomous division of legal systems into civil and common law ones. To some degree and in the restricted geographic sense, it can also be termed “European law”. Although community law is of direct significance for the community subjects from the member countries, its effect is indirectly extended to subjects from third countries. Apart from this practical significance, the study of community law is important from a theoretical point of view, because it is a new supranational law, as a specific effort at regional unification by creating the new *ius commune Europeum*.

The law being created within the three Communities (European Community, European Community for coal and steel and European Community for atomic energy) is usually called the European Communities law or community law and, after coming into force of the Agreement on the European Union, they began calling it also the law of the European Union or “European law”. Community law did not replace the national laws of member countries. It exists parallel to them and regulates only specified relations between the community subjects. The subjects of community law are physical persons having the citizenship of one of the EU



member countries, legal persons having the seat in one of the member countries, member countries and their bodies, and bodies and institutions of the European Communities.

According to the subject of regulation, the system of community law consists of two tentative sets of regulations. The first set includes the regulations governing the organizational and constitutional law issues, such as the composition, working method and competence of the joint Communities bodies, their relationship with each other and towards the laws of the member-countries. According to their nature and origins, these regulations can be compared with the regulations of constitutional and administrative law in the domestic laws of the member-countries. Such regulations constitute so-called *institutional law* of the European Communities.

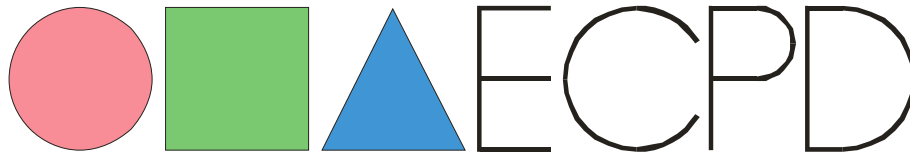
The second set of regulations governs the establishment and functioning of the common and internal market, economic and monetary union, as well as other issues falling within the competence of commercial law and the law of competition. These regulations are also designated as so-called *business (commercial) community law*. Community law also includes other albeit less numerous regulations, which regulate some issues relating to commercial, contract law, law of torts, law of procedure, tax, punitive and ecological law, as well as other branches of law.

Although community law regulates the relations among the EU member countries, it can also be of direct importance for subjects from third, non-member countries in two situations. First, in case of the extraterritorial application of community regulations on competition and, second, in case of various kinds of agreements with the EC/EU under which third, non-member countries assume concrete obligations to observe community regulations. Of special significance for the countries of Central Europe are so-called European Agreements on Association. Under these Agreements, the associated countries have assumed an obligation to gradually harmonize their legal systems. On the other hand, one should bear in mind that the European Union is comprised of 27 European countries with a rich cultural, economic and legal heritage, whose legal systems, expressed in the well-known civil or commercial law codifications, have undoubtedly exerted a significant influence on the legislations of other European countries.

### 1.1. Regulations

A **regulation** is a legislative act of the European Union which becomes immediately enforceable as law in all member states simultaneously. It can be distinguished from directives which are, at least in principle, binding only on a particular result to be achieved and dependent on implementing measures.

The legal basis for the enactment of regulations is article 249 of the Treaty establishing the European Community and, as such, regulations only apply within the European Community pillar of the European Union. Regulations are in some sense equivalent to “Acts of Parliament of the Union”, in the sense that what they say is law. As such, regulations constitute one of the most powerful forms of European Union law and a great deal of care is required in their drafting and formulation. When a regulation comes into force it overrides all national laws dealing with the same subject matter and subsequent national legislation must be consistent to and made in the light of the regulation. While member states are prohibited from obscuring the



direct effect of regulations, it is common practice to pass legislation dealing with consequential matters arising from the coming into force of a regulation.

## 1.2. Directives

A **directive** is a legislative act of the European Union which requires member states to achieve a particular result without dictating the means of achieving that result. It can be distinguished from European Union regulations which are self-executing and do not require any implementing measures. Directives normally leave member states with a certain amount of leeway as to the exact rules to be adopted. Directives can be adopted by means of a variety of legislative procedures depending on its subject matter.

The legal basis for the enactment of directives is article 249 of the Treaty establishing the European Community and, as such, directives only apply within the European Community pillar of the European Union.

Directives are only binding on the member states to whom they are addressed, which can be just one member state or a group of them. In practice however, with the exception of directives related to the Common Agricultural Policy, directives are addressed to all member states.

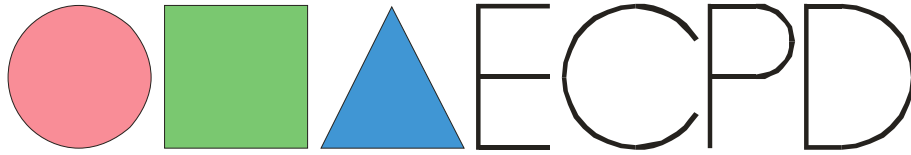
1.2.1. When adopted, directives give member states a timetable for the implementation of the intended outcome. Occasionally the laws of a member state may already comply with this outcome and the state involved would only be required to keep their laws in place. But more commonly member states are required to make changes to their laws in order for the directive to be implemented correctly. If a member state fails to pass the required national legislation, or if the national legislation does not adequately comply with the requirements of the directive, the European Commission may initiate legal action against the member state in the European Court of Justice.

1.2.2. Notwithstanding the fact that directives were not originally thought to be binding before they were implemented by member states, the European Court of Justice developed the doctrine of direct effect where unimplemented or badly implemented directives can actually have direct legal force. And in *Francovich v. Italy* the court found that member states could be liable to pay damages to individuals and companies who had been adversely affected by the non-implementation of a directive.

## 1.3. Decisions

A **decision** is one of the three binding instruments provided by secondary EU legislation. A decision is a law which is not of general application, but only applies to its particular addressee of the decision (be it Member States, companies or individuals).

The legislative procedure for adoption of a decision varies depending on its subject matter. The Codecision procedure requires agreement of and allows amendments by both the European Parliament and the Council of the European Union. The Assent procedure requires agreement of both Parliament and Council, but the Parliament can only agree or disagree to the text as a whole – it cannot propose amendments. The Consultation procedure requires agreement of the



Council alone, the Parliament merely being consulted on the text. In some areas, such as competition policy, the Commission may itself issue decisions.

Common uses of decisions involve the Commission ruling on proposed mergers, and day-to-day agricultural matters (e.g. setting standard prices for vegetables.)

#### ***1.4. Recommendation***

A **recommendation** in the European Union is one of two kinds of non-binding acts cited in the Treaty of Rome. Recommendations are without legal force but are negotiated and voted on according to the appropriate procedure. Recommendations differ from regulations, directives and decisions, in that they are not binding for Member States. Though without legal force, they do have a political weight. The recommendation is an instrument of indirect action aiming at preparation of legislation in Member States, differing from the Directive only by the absence of obligatory power.

Concretely, recommendations can be used by the Commission to raze barriers of competition caused by the establishment or the modification of internal norms of a Member State. If a country does not conform to a recommendation, the Commission cannot propose the adoption of a Directive aimed at other Member Countries, in order to elide this distortion.

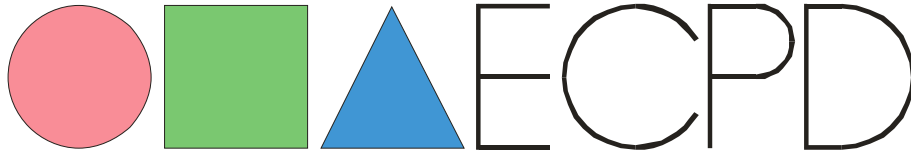
## ***2. European Court of Justice***

The ECJ is the highest court of the European Union in matters over which it has competency (below), but no others – EU member states’ supreme courts, or equivalent, are the highest courts in their respective jurisdictions in all other matters, as each nation state has its own sovereign and different legal and jurisprudence systems.

It adjudicates on matters of interpretation of European Union law, most commonly:

- Claims by the European Commission that a member state has not implemented a European Union Directive or other legal requirement.
- Claims by member states that the European Commission has exceeded its authority.
- References from national courts in the EU member states asking the ECJ questions about the meaning or validity of a particular piece of EU law. The Union has many languages and competing political interests, and so local courts often have difficulty deciding what a particular piece of legislation means in a given context. The ECJ will then give its ruling which is binding on the national court, to which the case will be returned to be disposed of. The ECJ is only permitted to aid in interpretation of the law, not decide the facts of the case itself.

Individuals cannot bring cases to the ECJ directly. An individual who is sufficiently concerned by an act of one of the institutions of the European Union can challenge that act in a lower court, called the Court of First Instance. An appeal on points of law lies against the decisions of the Court of First Instance to the ECJ. Employees of the European Commission and other



EU institutions currently sue their employer in the Court of First Instance. However, a specialist European Union Civil Service Tribunal was set up in 2005 to deal with these matters. In addition, the creation of a European Union Patent Tribunal is currently being examined.

As of January 2007, the Court of Justice is made up of 27 Judges and 8 Advocates General. Should the Court so request, the Council of the European Union may, acting unanimously, increase the number of Advocates General.

The Judges and Advocates General are appointed by common accord of the governments of the member states and hold office for a renewable term of six years. They are chosen from legal experts whose independence is 'beyond doubt' and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are of recognised competence.

### *2.1. President*

The Judges select one of their number to be President of the Court for a renewable term of three years. He or she may be re-elected.

The President directs the judicial business and the administration of the Court; he presides at hearings and deliberations in chambers. He or she assigns the cases to one of the chambers for any preparatory inquiries and appoints a Judge from the chamber to act as rapporteur. He or she sets the dates and timetable for the sessions of the Grand Chamber and of the full Court. The President also personally takes a decision on requests for the application of interim measures.

### *2.2. Judges*

Each member state of the European Union has the power to nominate one judge, so their number coincides most of the time with the number of member states. However, as the ECJ can only sit with an uneven number of judges, additional judges have been appointed at times when there was an even number of member states.

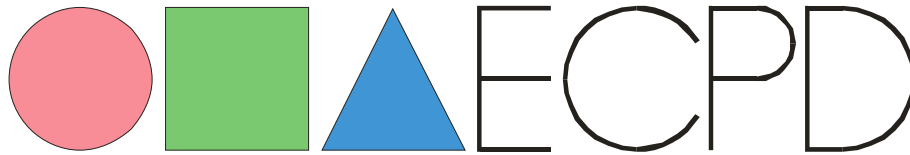
### *2.3. Advocates General*

Advocates General play a special role within the Court of Justice. They are neither judge nor prosecutor, yet they assist with each case and deliver their opinions on questions.

The Advocates-General assist the Court in its task. They deliver, in open court and with complete impartiality and independence, opinions in all cases, save as otherwise decided by the Court where a case does not raise any new points of law. Their duties should not be confused with those of a public prosecutor or similar body.

Although the Advocates General are full members of the ECJ, it is important to note that they are not judges and they do not take part in the court's deliberations. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the





cases for which they are responsible. The Advocate General's Opinion, although often in fact followed, is not binding on the Court.

5 of the 8 Advocates General are nominated as of right by the 5 big member states of the European Union: Germany, France, the United Kingdom, Italy and Spain. The other 3 positions rotate in alphabetical order between the 20 smaller member states; currently (2007), Slovenia, Slovakia and Portugal are thus represented. However, being only a little smaller than Spain, Poland has repeatedly requested a permanent Advocate General.

#### *2.4. Jurisdiction*

It is the responsibility of the Court of Justice to ensure that the law is observed in the interpretation and application of the Treaties of the European Union and of the provisions laid down by the competent Community institutions. To enable it to carry out that task, the Court has wide jurisdiction to hear various types of action. The Court has competence, inter alia, to rule on applications for annulment or actions for failure to act brought by a Member State or an institution, actions against Member States for failure to fulfil obligations, references for a preliminary ruling and appeals against decisions of the Court of First Instance.

#### *2.5. Actions for failure to fulfill obligations*

Such proceedings enable the Court of Justice to determine whether a Member State has fulfilled its obligations under Community law. The commencement of proceedings before the Court of Justice is preceded by a preliminary procedure conducted by the Commission, which gives the Member State the opportunity to reply to the complaints against it. If that procedure does not result in termination of the failure by the Member State, an action for breach of Community law may be brought before the Court of Justice. That action may be brought by the Commission – as is practically always the case – or by another Member State. If the Court finds that an obligation has not been fulfilled, the Member State concerned must terminate the breach without delay. If, after new proceedings are initiated by the Commission, the Court of Justice finds that the Member State concerned has not complied with its judgement, it may, upon the request of the Commission, impose on the Member State a fixed or a periodic financial penalty.

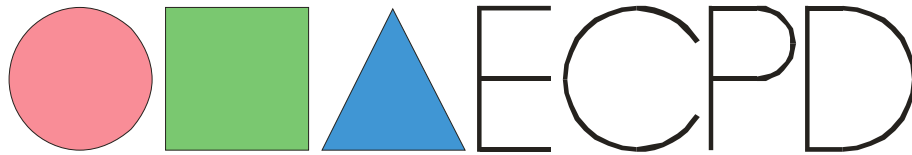
#### *2.6. Application for compensation based on non contractual liability*

In applications for compensation, based on non-contractual liability, the Court of First Instance rules on the liability of the Community for damage caused to citizens and to undertakings by its institutions or servants in the performance of their duties.

#### *2.7. Appeals on points of law*

Lastly, appeals on points of law only may be brought before the Court of Justice against judgements given by the Court of First Instance. If the appeal is admissible and well founded, the Court of Justice sets aside the judgement of the Court of First Instance. Where the state of the proceedings so permits, the Court may itself decide the case. Otherwise, the Court must





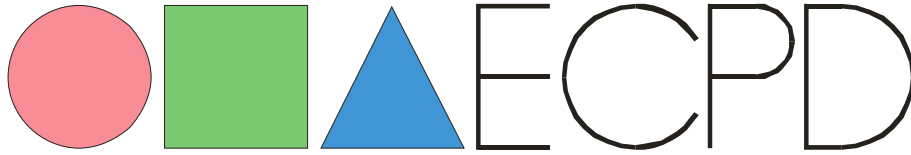
refer the case back to the Court of First Instance, which is bound by the decision given on appeal.

### ***3. References for a preliminary ruling***

References for a preliminary ruling are specific to Community law. Whilst the Court of Justice is, by its very nature, the supreme guardian of Community legality, it is not the only judicial body empowered to apply Community law.

That task also falls to national courts, in as much as they retain jurisdiction to review the administrative implementation of Community law, for which the authorities of the Member States are essentially responsible; many provisions of the Treaties and of secondary legislation – regulations, directives and decisions – directly confer individual rights on nationals of Member States, which national courts must uphold. National courts are thus by their nature the first guarantors of Community law. To ensure the effective and uniform application of Community legislation and to prevent divergent interpretations, national courts may, and sometimes must, turn to the Court of Justice and ask that it clarify a point concerning the interpretation of Community law, in order, for example, to ascertain whether their national legislation complies with that law.

A reference for a preliminary ruling may also seek review of the legality of an act of Community law. The Court of Justice's reply is not merely an opinion, but takes the form of a judgement or a reasoned order. The national court to which that is addressed is bound by the interpretation given. The Court's judgement also binds other national courts before which a problem of the same nature is raised. References for a preliminary ruling also serve to enable any European citizen to seek clarification of the Community rules which concern him. Although such a reference may be made only by a national court, which alone has the power to decide that it is appropriate to do so, all the parties involved – that is to say, the Member States, the parties in the proceedings before national courts and, in particular, the Commission – may take part in proceedings before the Court of Justice. In this way, a number of important principles of Community law have been laid down in preliminary rulings, sometimes in answer to questions referred by national courts of first instance.



## **Second part: INTERNATIONAL BUSINESS LAW**

### **I. SOURCES OF LAW, LEGAL PHILOSOPHY AND NATURAL LAW**

#### *1. Sources of Law*

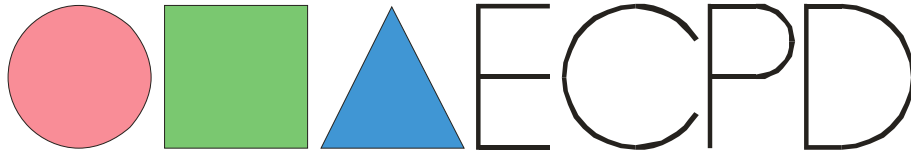
Sources of law can be considered as such in a material and formal sense. In a material sense, the source of law is a social cause that prompts the creation of law as a social phenomenon. In a formal sense, it is a general legal act, i.e. an act that contains a general legal norm from which individual legal acts setting individual legal norms are derived.

Consequently, the source of law contains a general norm that is valid for all cases anticipated by it, regardless of how many times it will be applied. The existence of sources of law ensures specified social consequences, or the effects of law. Those are, above all, legal security and equality. Sources of law provide legal security, since they are adopted in advance, so that the agents to whom they apply know precisely and in advance what legal norms have to be obeyed. Legal equality is secured by the fact that legal norms apply to all cases of the same kind, since all those cases are regulated in the same way. It would be impossible to secure equality without sources of law, because various agents would adopt different individual norms for identical cases.

Formal sources are not the same in all legal systems, nor are they always the same in the same system. The most important source of law today – the law – began to take precedence as late as the eighteenth century. Until then, the principal sources of law were customs. In continental law, statute law is prevalent, whereby the law is the prime source of law. In Anglo-Saxon law, customs and judicial precedents are prevalent. However, in Anglo-Saxon law too, one can observe an increasingly greater role of the law and statute law.

As for legal acts to be in existence and their relations, that will depend on numerous factors and especially on the development level of a given society and law. What act will be the source of law in a legal system is determined by positive law and not by legal science, which only interprets and assesses this law.

Sources of law are set out in a hierarchical order according to their legal force. Since the state determines, after all, what the source of law is, it also determines the hierarchical order of these sources. Today, the most important sources of law are the law, sub-legal enactments, judicial precedent, custom and, in a certain sense, contract. Judicial practice and legal science are also significant, although they are not sources of law.



## ***2. Legal Philosophy***

Legal philosophy is a part of philosophy relating to law. Since philosophy itself has many different meanings and since the philosophic systems of various philosophers differ among themselves very much, all this is also reflected in legal philosophy. Thus, it is also comprehended in different ways and deals with quite different issues. There are also many different systems and concepts of legal philosophy, i.e. from the positivist concept of legal philosophy as the most general science, which is equalized with legal theory, to various metaphysical, gnoseological, normativist-political and other concepts. As a rule, the systems and concepts of legal philosophy are not original, since they are always based on various general philosophic systems. Legal philosophy was largely developed by reputed philosophers within their general systems and, thereafter, elaborated by legal scholars who did not deal with general philosophic problems, but only with those relating to legal philosophy.

There are three major concepts of legal philosophy:

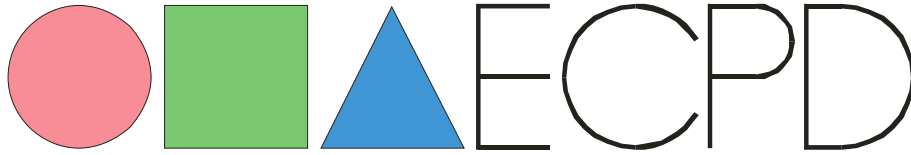
- **Metaphysical-ontological** concepts attempt to determine the so-called essence of law and its position relative to other parts of the world. Law is comprehended either as the necessary part of the world, that is, society or as its temporary phenomenon, as the product of the will of some conscious being, or as something objectively given. The major metaphysical-ontological legal-philosophic concepts are objective-idealist (Platonic, Hegelian, etc.), natural law, phenomenological, sociological, etc.
- **Gnoseological** concepts deal with the problems of perceiving law as a special kind of law. As a norm, law differs from physical nature and sets special gnoseological problems. Gnoseological theories of law proceed largely from Kant's critical approach, being either under its influence or opposing it.
- **Normativist-axiological** concepts assign legal philosophy to define law according to the value criteria. They are concerned with the values achieved by law and its suitability for their achievement, in addition to establishing their own values, which, as is held, law should achieve.

Finally, the **logical** analysis of law points to a number of special logical problems and particularly to the problem of interpreting legal norms. Although they do not justify a special logic, there is certainly the need for a special discussion about them within the scope of general logic.

## ***3. Natural law***

The philosophy of natural law, from the antiquity until the present times, has survived all the centuries, being able thus to present itself to us as a rational conception – under the name of human rights.

Natural law, as a per se just law, has never and nowhere been established as a complete system that would function by the method characteristic of the positive law. However, the natural law as a law above legislative enactments, presides over all other positive law principles. It has always been active – as a model and as a higher principle, as well as a criterion for assessing the positive law, in a sense of its good, less good or bad solutions.



The idea of natural law, so far as the form of its expression is concerned, has involved two modes of its existence: one that was philosophical, the origins of which can be seen in the antique Greek philosophy and which continuously lasts till present days, and the other-its normative expression, that found its all encompassing form only in the second half of the twentieth century in legal documents of the United Nations and standards of the international community. The latter mode of expression makes at present a great and immeasurable world of law of codified natural rights of man. When we talk about the multitude of United Nations documents, we have to mention in the first place, and above all, the 1948 General Declaration of Rights of Man, which in fact amounts to the greatest codification of natural law made in the world history of legal culture.

We have to emphasize the importance of the European Convention on the Protection of Human Rights and Fundamental Freedoms of 1950. This Convention was a basis serving to develop a process of further elaboration of the matter of protection of human rights. We note the adoption of the European Union Charter on Fundamental Rights of Man, which as instrument of codification and, to quite a degree, reproduce basic human rights that are included in the provisions of previous documents, charters and conventions of regional and general character.

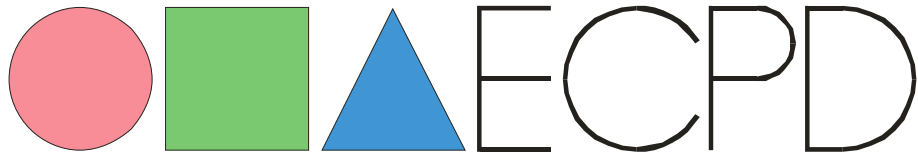
Having in mind that great number of human rights are set up and codified in the documents of international community, the question must be raised if the list of human rights is constantly open or it has its reaching limits in the sense of *numerous clauses*, as well as the question of the eventual legal hierarchy among individual categories of human rights. It must be pointed out that the essence of natural rights does not know about the division of rights through generations, since human rights are universal, constant and *a priori* wise and just.

Consequently, one integrated idea has to be expressed here through a synthesis that would rally human rights around the following central points: right to life, to freedom, to property, to intellectual creation, to justice, and to state ruled by law. It is needless to say that this Hexagon is not a closed system.

As mentioned, the theory of tripartition is also developed and its task is to solve the issue of relationship between the positive and the natural law. In short: natural law is a subsidiary and direct source of law; natural law is a correctional factor in the implementation of the positive law; natural law is thus a model-law, a subsidiary and a rectifying element for the positive law.

Natural rights of man have experienced especially in course of the second half of the twentieth century, in addition to their philosophical opus, their normative development expressed in the form of great codification of natural law. By including it in national legislations, the culture of natural law has made us believe that we are at the threshold of a universal and worldwide law which in its basis would be a just law – not only such in its source, letter and spirit of legislative acts, but also in actual procedure of its realization.

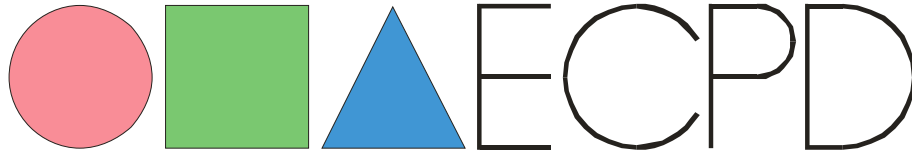
Nevertheless, that time has not come yet. Instead, a time of discord and hellish strife is before us. It has come to immense disparity between the proclaimed and unrealised rights of man, which is the providential question for our Civilisation. The inducements of such a state are numerous and versatile, depending on: space and time, geographic and ideological factors, religious and philosophic consciousness, economic potentiality and economic constitution. In summary, it depends on the degree of general and legal culture. The existence of extreme poverty in greater parts of the world objectively obstruct the possibility of realising many rights that have been ratified as economic, social, and cultural human rights. The other inducement can be seen in the



existence of anti-legal states, which, through their simulated Acts on Human Rights erase all legitimacy and legality as levers of the rule of law and of the legal state. The existing crisis is also influenced by the misuse of rights that arises in the event that they are practiced adversely to the aim for which they were established or recognised. In other words, when they are practiced with the intent of hurting others.

In spite of all causes of the present-day situation in the sphere of human rights in general, one should emphasise also the high degree of rapprochement between different legal systems in the second half of the twentieth century. Through numerous international conventions, as well as via actual influence, different families of law have gradually and considerably, approached each other, which is especially true for the sphere of private, i.e. civil law. Best example of that phenomenon is found in the harmonization of laws of many European countries with the European Union law and the codification of rights of man within the framework of the United Nations and other international organizations.





## II GREAT LEGAL SYSTEMS

### 1. Civil law

**Civil law** or **continental law** is the predominant system of law in the world. Civil law as a legal system is often compared with common law. The main difference that is usually drawn between the two systems is that common law draws abstract rules from specific cases, whereas civil law starts with abstract rules, which judges must then apply to the various cases before them.

Civil law has its roots in Roman law, Canon law and the Enlightenment. The legal systems in many civil law countries are based around one or several codes of law, which set out the main principles that guide the law. The most famous example is perhaps the French Civil Code, although the German BGB and the Swiss Civil Code are also landmark events in legal history. The civil law systems of Scotland and South Africa are uncodified, and the civil law systems of Scandinavian countries remain largely uncodified.

The civil law system is based on Roman law, especially the Corpus Juris Civilis of Emperor Justinian, as later developed by medieval legal scholars.

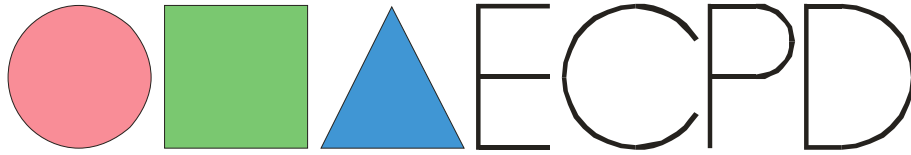
The acceptance of Roman law had different characteristics in different countries. In some of them its effect resulted from legislative act, i.e. it became positive law, whereas in other ones it became accepted by way of its processing by legal theorists.

Consequently, Roman law did not completely dominate in Europe. Roman law was a secondary source, that was applied only as long as local customs and local laws lacked a pertinent provision on a particular matter. However, local rules too were interpreted primarily according to Roman law (it being a common European legal tradition of sorts), resulting in its influencing the main source of law also.

A second characteristic, beyond Roman law foundations, is the extended codification of the adopted Roman law, i.e. its inclusion into civil codes.

The term "civil law" as applied to a legal tradition actually originates in English-speaking countries, where it was used to lump all non-English legal traditions together and contrast them to the English common law. However, since continental European traditions are by no means uniform, scholars of comparative law and economists promoting the legal origins theory usually subdivide civil law into three distinct groups:

- **French civil law:** in France, the Benelux countries, The Canadian Province of Quebec, Italy, Spain and former colonies of those countries;
- **German civil law:** in Germany, Austria, Switzerland, Greece, Portugal, Turkey, Japan, South Korea and the Republic of China;
- **Scandinavian civil law:** in Denmark, Norway and Sweden. Finland and Iceland inherited the system from their neighbours.



- **Chinese law** is a mixture of civil law and socialist law.

Portugal, Brazil and Italy have evolved from French to German influence, as their 19th century civil codes were close to the Napoleonic Code and their 20th century civil codes are much closer to the German Bürgerliches Gesetzbuch. Legal culture and law schools have also come near to the German system. The other law in these countries is often said to be of a hybrid nature.

The Dutch law or at least the Dutch civil code cannot be easily placed in one of the mentioned groups either, and it has itself influenced the modern private law of other countries.

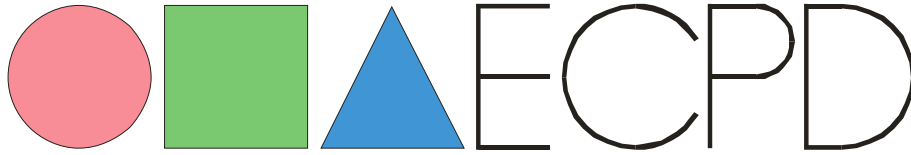
## **2. Common law**

In **common law** legal systems, judges have the authority and duty to decide what the law is when there is no other authoritative statement of the law. Once an appellate court has decided what the law is, that precedent tends to bind future decisions of the same appellate court, and binds all lower courts reviewed by that appellate court, when the facts of the case are similar, until there is another authoritative statement of the law (e.g. by a legislature or higher court). The **common law** forms a major part of the legal systems of those countries of the world with a history as territories or colonies of the British Empire (with the exception of Malta, Scotland and Quebec). It is notable for its inclusion of extensive non-statutory law reflecting precedent (*stare decisis*) derived from centuries of judgments by working jurists.

There are three important connotations to the term **common law**.

- 2.1. **Common law as opposed to statutory law and regulatory law:** The first connotation differentiates the authority that promulgated a particular proposition of law. For example, in most areas of law in most jurisdictions in the United States, there are "statutes" enacted by a legislature, "regulations" promulgated by executive branch agencies pursuant to a delegation of rule-making authority from a legislature, and "common law" (case law) decisions issued by courts (or quasi-judicial tribunals within agencies). This first connotation can be further differentiated, into (a) laws that arise purely from the common law without express statutory authority, for example, most of the criminal law and procedural law before the 20th century, and even today, most of contract law and the law of torts, and (b) decisions that discuss and decide the fine boundaries and distinctions in written laws promulgated by other bodies, such as the Constitution, statutes and regulations. See statutory law and non-statutory law.
- 2.2. **Common law legal systems as opposed to civil law legal systems:** The second connotation differentiates "common law" jurisdictions and legal systems from "civil law" or "code" jurisdictions. Most common law systems descend from the English legal system. Common law systems place great weight on court decisions, which are considered "law" just as are statutes. By contrast, civil law jurisdictions descend mainly from Roman law through either the Napoleonic code or the German Civil Code. Case law was traditionally given less weight - for example the Napoleonic code expressly forbade French judges from pronouncing the law.





- 2.3. **Law as opposed to equity:** The third differentiates "common law" (or just "law") from "equity". Before 1873, England had two parallel court systems, courts of "law" that could only award money damages and recognised only the legal owner of property, and courts of "equity" that recognised trusts of property and could issue injunctions (orders to do or stop doing something). Although the separate courts were merged long ago in most jurisdictions, or at least all courts were permitted to apply both law and equity (though under potentially different laws of procedure), the distinction between law and equity remains important in (a) categorising and prioritising rights to property, (b) determining whether the Seventh Amendment's guarantee of a jury trial applies (a determination of a fact necessary to resolution of a "law" claim) or whether the issue can only be decided by a judge (issues of equity), and (c) in the principles that apply to the grant of equitable remedies by the courts.

The common law constitutes the basis of the legal systems of: England and Wales, Northern Ireland, the Republic of Ireland, federal law in the United States and the states' laws (except Louisiana), federal law in Canada and the provinces' laws (except Quebec civil law), Australia (both federal and individual states), New Zealand, South Africa, India, Malaysia, Brunei, Pakistan, Singapore, Hong Kong, and many other generally English-speaking countries or Commonwealth countries (except Malta and Scotland). Essentially, every country which has been colonised at some time by England, Great Britain, or the United Kingdom uses common law except those that had been formerly colonised by other nations, such as Quebec (which follows French law to some extent), South Africa and Sri Lanka (which follow Roman Dutch law), where the prior civil law system was retained to respect the civil rights of the local colonists. India's system of common law is also a mixture of English law and the local Hindu law, except in the state of Goa which retains the Portuguese civil code.

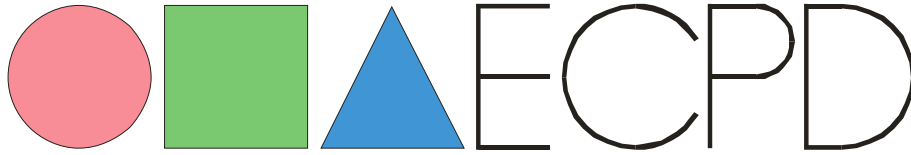
### ***3. Differences between Civil and Common law***

Civil law is primarily contrasted against common law, which is the legal system developed among Anglo-Saxon people, especially in England.

The original difference is that, historically, common law was law developed by custom, beginning before there were any written laws and continuing to be applied by courts after there were written laws, too, whereas civil law developed out of the Roman law of Justinian's *Corpus Juris Civilis* (*Body of Civil Law*).

In later times civil law became codified as *droit coutumier* or customary law that were local compilations of legal principles recognized as normative. Sparked by the age of enlightenment, attempts to codify private law began during the second half of the 18th century (*see* civil code), but civil codes with a lasting influence were promulgated only after the French Revolution, in jurisdictions such as France (with its Napoleonic Code), Austria (*see* ABGB), Quebec (*see* Civil Code of Quebec), Spain (*Código Civil*), the Netherlands and Germany (*see* *Bürgerliches Gesetzbuch*). However, codification is by no means a defining characteristic of a civil law system, as e.g. the civil law systems of Scandinavian countries remain largely uncoded, whereas common law jurisdictions have frequently codified parts of their laws, e.g. in the U.S. Uniform Commercial Code. There are also mixed systems, such as the laws of Scotland, Louisiana, Quebec, the Philippines, Namibia and South Africa.





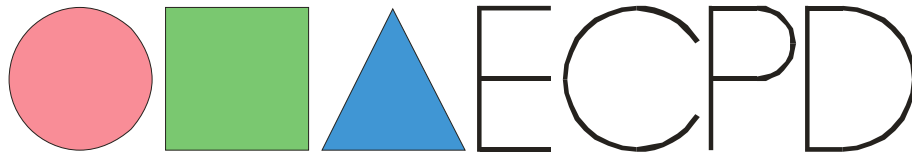
Thus, the difference between civil law and common law lies not just in the mere fact of codification, but in the methodological approach to codes and statutes. In civil law countries, legislation is seen as the primary source of law. By default, courts thus base their judgments on the provisions of codes and statutes, from which solutions in particular cases are to be derived. Courts thus have to reason extensively on the basis of general rules and principles of the code, often drawing analogies from statutory provisions to fill lacunae and to achieve coherence. The fact is that, in the common law system, cases are the primary source of law, while statutes are only seen as incursions into the common law and thus interpreted narrowly.

The underlying principle of separation of powers is seen somewhat differently in civil law and common law countries. In some common law countries, especially the United States, judges are seen as balancing the power of the other branches of government. By contrast, the original idea of separation of powers in France was to assign different roles to legislation and to judges, with the latter only applying the law (the judge as *la bouche de la loi*; 'the mouth of the law'). This translates into the fact that many civil law jurisdictions reject the formalistic notion of binding precedent (although paying due consideration to settled case-law)

There are other notable differences between the legal methodologies of various civil law countries. For example, it is often said that common law opinions are much longer and contain elaborate reasoning, whereas legal opinions in civil law countries are usually very short and formal in nature. This is in principle true in France, where judges cite only legislation, but not prior case law. (However, this does not mean that judges do not consider it when drafting opinions.) By contrast, court opinions in German-speaking countries can be as long as English ones, and normally discuss prior cases and academic writing extensively.

There are, however, certain sociological differences. In some Civil law countries judges are trained and promoted separately from attorneys, whereas common law judges are usually selected from accomplished and reputable attorneys. In the Scandinavian countries judges are attorneys who have applied for the position, whereas France has a specialized graduate school for judges.

With respect to criminal procedure, certain civil law systems are based upon a variant of the inquisitorial system rather than the adversarial system. In common law countries, this kind of judicial organization is sometimes criticized as lacking a presumption of innocence. Most European countries, however, are parties to the European Convention on Human Rights and Article 6 guarantees "the right to a fair trial" and the presumption of innocence. The Convention is ratified by all the members and as such part of their national legislation. Some Civil law nations also have legislation that predates the Convention and secures the defendant the presumption of innocence. Amongst them Norway where the presumption is guaranteed by uncodified customary law and validated theory recognized by the Supreme Court in plenary (effectively forming a precedent).



### **III INTERNATIONAL ORGANIZATIONS IN THE FIELD OF INTERNATIONAL BUSINESS LAW**

The international business law is consisted of specific legal rules, which facilitate trade in goods and services at the global level. The sources of international business law are international conventions and the other regulations passed by the international business customs and rules. Some rules of international business law were taken over from national regulations, the others are the expression of business practice (or customs) in certain areas, and the third are new and original – even unknown to most of jurists. Therefore, business partners must be acquainted with international regulations that can be used for settling a dispute (especially if the parties have not agreed on so-called applicable law).

Most regulations in the field of international business law were passed in the second half of the twentieth century, which participants international trade have to be acquainted with, if they wish to contribute to an adequate performance of international transactions. This means that both jurists and businessmen must know at the time a contract is concluded what regulations should be applied in case of some difficulties, non-performance of the contract or other circumstances which hamper or prevent a proper fulfilment of contractual obligations.

International organizations dealing with the unification of international business law:

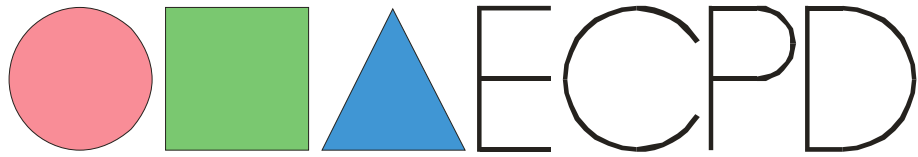
- United Nations Commission on International Trade Law (UNCITRAL), Vienna
- International Institute for the Unification of Private Law (UNIDROIT), Rome<sup>4</sup>
- The Hague Conference on International Private Law (The Hague)
- International Chamber of Commerce (ICC), Paris
- World Intellectual Property Organization (WIPO), Geneva
- International Standardization Organization (ISO), Geneva
- UN Economic Commission for Europe (ECE), Geneva
- UN Center for Trade Facilitation and Electronic Business (UN/CEFACT), Geneva

The areas in which the unification of international business law has been made (or is underway):

- International sale of goods
- International transport of goods (road, rail, river, maritime, air)
- Public supplies and projects of infrastructure
- International payments
- International arbitration
- International private law
- Cross-border insolvency
- Electronic trade
- Intellectual property

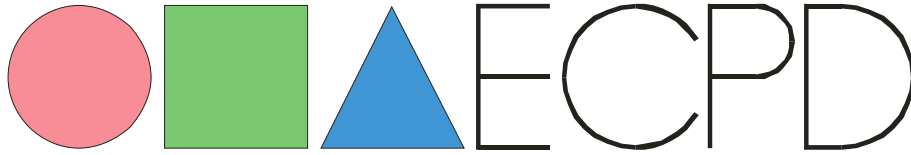
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<sup>4</sup> See pages 18-19

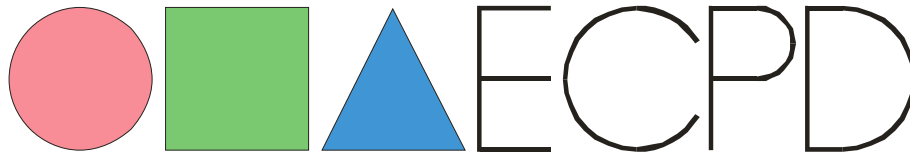


Sources of international business law are:

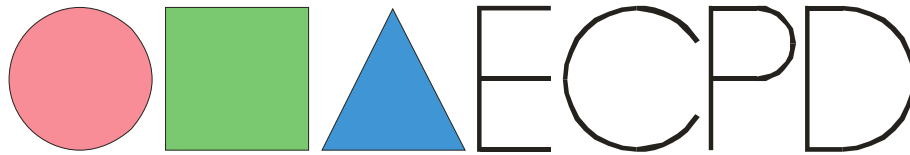
- International conventions
- Standard contracts
- General conditions and usages of business operation
- International practices



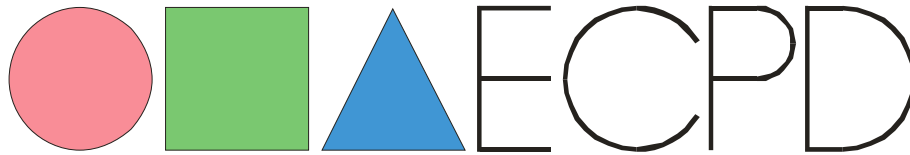
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| <p><b>UNCITRAL</b></p> <p><i>United Nations Commission on International Trade Law</i></p> | <p>UNCITRAL is the core legal body of the United Nations system in the field of international trade law, a legal body with universal membership specializing in commercial law reform worldwide for over 30 years. UNCITRAL's business is the modernization and harmonization of rules on international business. Trade means faster growth, higher living standards, and new opportunities through commerce. In order to increase these opportunities worldwide, UNCITRAL is formulating modern, fair, and harmonized rules on commercial transactions. These include:</p> <ul style="list-style-type: none"> <li>• Conventions, model laws and rules which are acceptable worldwide;</li> <li>• Legal and legislative guides and recommendations of great practical value;</li> <li>• Updated information on case law and enactments of uniform commercial law;</li> <li>• Technical assistance in law reform projects;</li> <li>• Regional and national seminars on uniform commercial law.</li> </ul> <p>The United Nations Commission on International Trade Law (UNCITRAL) was established by the General Assembly in 1966 (Resolution 2205(XXI) of 17 December 1966). In establishing the Commission, the General Assembly recognized that disparities in national laws governing international trade created obstacles to the flow of trade, and it regarded the Commission as the vehicle by which the United Nations could play a more active role in reducing or removing these obstacles. The General Assembly gave the Commission the general mandate to further the progressive harmonization and unification of the law of international trade. The Commission has since come to be the core legal body of the United Nations system in the field of international trade law. The Commission is composed of thirty-six member States elected by the General Assembly. Membership is structured so as to be representative of the world's various geographic regions and its principal economic and legal systems. Members of the Commission are elected for terms of six years, the terms of half the members expiring every three years. The Secretariat of UNCITRAL is the International Trade Law Branch of the United Nations Office of Legal Affairs.</p> <p>UNCITRAL Secretariat, P.O. Box 500<br/>         Vienna International Centre, A-1400 Vienna, Austria<br/>         Tel.:(43-1) 26060-4060 or 4061 Fax: (43-1) 26060-5813<br/>         e-mail: <a href="mailto:uncitral@uncitral.org">uncitral@uncitral.org</a> Internet: <a href="http://www.uncitral.org">www.uncitral.org</a></p> |
| <p><b>UNIDROIT</b></p>  | <p>See pages 18-19</p>   |
| <p><b>THE HAGUE</b></p> <p><i>Conference On Private International Law</i></p>             | <p>The Hague Conference on private international law is an intergovernmental organization the purpose of which is "to work for the progressive unification of the rules of private international law" (Statute, Article 1). The principal method used to achieve this purpose consists in the negotiation and drafting of multilateral treaties (conventions) in the different fields of private international law (e.g. international judicial and administrative co-operation; conflict of laws for contracts, torts, maintenance obligations, status and protection of children, relations between spouses, wills and estates or trusts; jurisdiction and enforcement of foreign judgments). Permanent Bureau Hague Conference on Private International Law, 6, Scheveningsweg, 2517 KT The Hague, Netherlands e-mail: <a href="mailto:secretariat@hcch.net">secretariat@hcch.net</a> Internet: <a href="http://www.hcch.net">www.hcch.net</a></p>  |



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| <p style="text-align: center;"><b>ICC</b><br/><i>International Chamber of Commerce</i></p>              | <p>The International Chamber of Commerce ICC is a non-governmental, international organisation founded in 1919. Its primary goal was the initiation and advancement of international trade and its perturbed processes, above all, the creation of new internationally valid rules. Today, the main task of this largest world commercial organisation is to work for the benefit of free world commerce so that international economic cooperation leads to general advancement and peace between nations. The ICC represents and defends the interests of the business world in the international arena. The ICC is a qualified negotiation partner to governments and highest governmental forums. The ICC has approximately 7400 members from 131 countries. Around one half of the countries realises its membership through national boards, and the other countries through direct members. The ICC with its activities that pertain to political economy and trading techniques, among other things, contributes in furthering international trade, the removal of barriers in the global economy, the system advancement of market economies, the strengthening of economic growth, the fight against protectionism and the promoting of the greater movement of goods, services, capital and technology, passing of regulations and the issuing of recommendations to members, international, economic and political organizations for the resolution of international problems, etc Alongside, the ICC offers support via international arbitration. The ICC is presently the most popular means of resolving international trade disputes. International Chamber of Commerce (ICC) 38 Cours Albert 1er, 75008 Paris, France Tel: + 33 14953 2828 Fax+33149532859 E-mail:webmaster@iccwbo.org Internet: www.iccwbo.org</p> |
| <p style="text-align: center;"><b>WIPO</b><br/><i>World Intellectual Property Organization</i></p>      | <p>The World Intellectual Property Organization (WIPO) is an international organization dedicated to promoting the use and protection of works of the human spirit. These works – intellectual property – are expanding the bounds of science and technology and enriching the world of the arts. Through its work, WIPO plays an important role in enhancing the quality and enjoyment of life, as well as creating real wealth for nations. With headquarters in Geneva, Switzerland, WIPO is one of the 16 specialized agencies of the United Nations system of organizations. It administers 23 international treaties dealing with different aspects of intellectual property protection. The Organization counts 179 nations as member states. Headquarters of WIPO: WIPO, 34, chemin des Colombettes, Geneva Mailing address: PO Box 18, CH-1211 Geneva 20 Telegraphic address: OMPI Geneva Tel.: +41-22 338 9111 Fax: +41-22 733 54 28 Telex: 412912 ompi ch e-mail: wipo.mail@wipo.int, Internet: www.wipo.int</p>   |
| <p style="text-align: center;"><b>ISO</b><br/><i>International Organization for Standardization</i></p> | <p>The International Organization for Standardization (ISO) is a worldwide federation of national standards bodies from some 140 countries, one from each country. ISO is a non-governmental organization established in 1947. The mission of ISO is to promote the development of standardization and related activities in the world with a view to facilitating the international exchange of goods and services, and to developing cooperation in the spheres of intellectual, scientific, technological and economic activity. ISO's work results in international agreements, which are published as International Standards. ISO Central Secretariat: International Organization for Standardization (ISO) 1, rue de Varembe, Case postale 56, CH-1211 Geneva 20, Switzerland Tel.: + 41 22 749 01 11 Fax: + 41 22 733 34 30; e-mail: central@iso.org Internet: www.iso.org</p>  |



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| <p><b>UNECE</b></p> <p><i>United Nations Economic Commission for Europe</i></p>                            | <p>UNECE was set up in 1947 by ECOSOC (United Nations Economic and Social Council). It is one of five regional commissions of the United Nations. Its primary goal is to encourage greater economic cooperation among its member States. It focuses on economic analysis, environment and human settlements, statistics, sustainable energy, trade, industry and enterprise development, timber and transport. UNECE activities include policy analysis, development of conventions, regulations and standards, and technical assistance. UNECE provides support for the regions through concrete programs and projects. UNECE has 55 member States. However, all interested UN member States may participate in its work. Over 70 international professional organizations and other non-governmental organizations take part in UNECE activities. Information Service<br/> United Nations Economic Commission for Europe (UNECE)<br/> Palais des Nations, Office 356, CH - 1211 Geneva 10, Switzerland,<br/> Tel: +41(0)22 917 44 44 Fax: +41(0)22 917 05 05<br/> e-mail: <a href="mailto:info.ece@unece.org">info.ece@unece.org</a> Internet: <a href="http://www.unece.org">www.unece.org</a></p>  |
| <p><b>UN/CEFACT</b></p> <p><i>United Nations Centre for Trade Facilitation and Electronic Business</i></p> | <p>UN/CEFACT is the United Nations Centre for Trade Facilitation and Electronic Business. It is open to participation from Member States, intergovernmental organizations, and sectoral and industry associations recognized by the Economic and Social Council of the United Nations (ECOSOC). The Centre's objective is to be "inclusive" and it actively encourages organizations to contribute and help develop its recommendations and standards. The participation of many private-sector associations in UN/CEFACT's work at the policy level, and of hundreds of private-sector technical experts in UN/CEFACT working groups, is a unique feature of the Centre which is forging new cooperative relationships between private business and public organizations. Within the United Nations, UN/CEFACT is located in the Economic Commission for Europe (UN/ECE), which is part of the United Nations network of regional commissions. These regional commissions report to the highest United Nations body in the area of economics, trade and development: ECOSOC. This is the ideal location for developing practical recommendations for action because, within various work areas in the United Nations system, the regional commissions have the closest links to national Governments at the expert level. UN/CEFACT's mission: To improve the ability of business, trade and administrative organizations, from developed, developing and transitional economies, to exchange products and relevant services effectively - and so contribute to the growth of global commerce. Focus: The worldwide facilitation of international transactions, through the simplification and harmonization of procedures and information flows. UN/CEFACT's goals: Expanding global commerce; Reducing bureaucracy and increasing transparency; Creating better data flows through electronic commerce; Lowering transaction costs; Developing a network of supporting institutions; Improving private and public sector management. UN/CEFACT Secretariat: UN Economic Commission for Europe, Palais des Nations, Room 442, CH-1211 Geneva 10 Switzerland<br/> Tel.: +41 22 917 27 73 Fax: +41 22 917 00 37 e-mail: <a href="mailto:CEFACT@unece.org">CEFACT@unece.org</a><br/> Internet: <a href="http://www.unece.org/cefact/">www.unece.org/cefact/</a></p> |



## IV INTERNATIONAL COMPANY LAW

### 1. *European Company Law*

The formation and maintenance of a single market in the European Union is based on the principle of the free movement of goods, people, services and capital. The free movement of people includes the free movement of labour, that is, the freedom of employment of citizens of one member state in other member states, as well as the freedom of establishment. The latter implies the right of legal and physical persons residing in one member state to establish or manage an enterprise in another member state; to start up and carry on their own business, as well as to set up a representative office, branch or affiliate in another member state. These rights are stipulated by Article 43 (*ex Article 52*), 48 (*ex 58*) and 294 (*ex 221*) of the Treaty establishing the European Union.

The major obstacle to the freedom of establishment is posed by non-harmonized national legislations of EU member states relating to company and entrepreneurship law. Therefore, their harmonization was necessary. This was done by means of directives (instructions) on company law which were adopted by the Council. In addition, the Community regulations creating specific European forms of business organization – the European Company and European Economic Interest Grouping - were adopted.

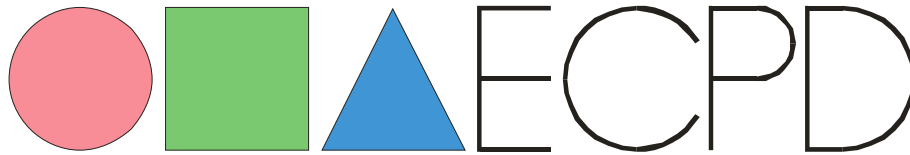
#### *EU Directives on Company Law*

**The First Directive** (Directive 68/151, O.J. L65 of 14 March 1968) prescribes the compulsory public disclosure of data on companies (joint-stock companies, limited partnerships, i.e. on the appropriate types of companies). Member states must keep official registers of companies, which should be accessible to the public and contain specified data such as, for example, data on the formation, status-related changes and nullity of the company, persons authorized to represent the company, financial operations of the company, etc. These data must be published in a national official gazette. The Directive also sets the requirements for the validity of the obligations entered into, in the name of the company, by persons authorized to represent it. Finally, it specifies the reasons for the nullity of an entry of company formation in the trade register. The objective of the Directive is to protect the interests of members of the company and third parties.

**The Second Directive** (Directive 77/91, O.J. L26 of 31 January 1977) prescribes the formation and maintenance of the minimum share capital of joint-stock companies. The minimum share capital of the joint-stock company must amount to ECU 25,000. It is not allowed to take any action that might reduce the share capital such as, for example, the distribution of dividends to the detriment of the share capital, or the acquisition by a company of its own shares. When the share capital is to be increased, the existing shareholders must have the priority right to subscribe for new shares. The objective of the Directive is to protect the interests of the shareholders and creditors of the company.

**The Third Directive** (Directive 78/885, O.J. L295 of 20 October 1978) lays down the rules concerning mergers between joint-stock companies, which is a form of enterprise





concentration. By merger activity, the assets of the joint-company being dissolved are transferred to the other joint-stock company. The shareholders of the joint-stock company being dissolved are, in exchange for their shares, allotted shares of the other joint-stock company. The Directive lays down the rules concerning the protection of the interests of the shareholders and creditors of the merging companies. The Directive applies only to mergers within the same member state.

**The Fourth Directive** (Directive 78/660, O.J. L222 of 14 August 1978) lays down the rules concerning the content and presentation of annual accounts of companies. Annual accounts must be verified by a registered auditor. The Directive protects the interests of the members and creditors of the company with respect to its financial data, which must be made available to them.

**The Sixth Directive** (Directive 82/891, O.J. L378 of 31 December 1982) lays down the rules concerning divisions of joint-stock companies. Division is a form of reorganization of joint-stock companies, whereby the assets of the joint-stock company being divided are transferred to two or more companies, while the shareholders of the company being divided are, in exchange for their shares, allotted shares in the companies to which their holdings have been transferred. The Directive applies only to divisions within the same member country.

**The Seventh Directive** (Directive 83/349, O.J. L193 of 18 August 1983) lays down the rules concerning the drawing up of consolidated annual accounts of companies being interdependent (parent and subsidiary companies, holding companies and other forms of consolidation). Consolidated annual accounts must be verified by a registered auditor and published in conformity with the First Directive.

**The Eighth Directive** (Directive 84/253, O.J. L126 of 12 May 1984) lays down the rules on the approval of auditors – persons responsible for the verification of annual accounts of companies.

**The Eleventh Directive** (Directive 89/666, O.J. L395 of 30 December 1989) lays down the rules concerning the disclosure requirements imposed in a member state in respect of branches of companies formed in another member state. According to this Directive, branches may not have to draw up and publish separate annual accounts if the parent company draws up and publishes a verified consolidated account.

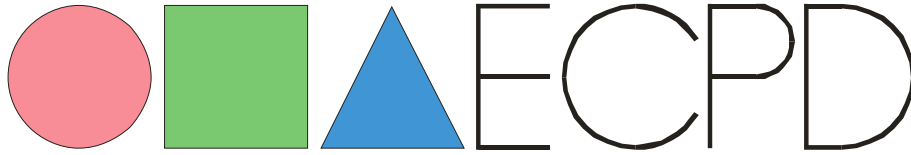
**The Twelfth Directive** (Directive 89/667, O.J. L395 of 30 December 1989) regulates the status of single-member companies. The single member exercises the powers of a general meeting of the company. Decisions taken by the single member must be drawn up in writing. Contracts between him and his company must also be drawn up in writing.

The Fifth, Ninth, Tenth and Thirteenth Directives prescribing the structure and status of the bodies of joint-stock companies, relations between the parent company and its subsidiary, international mergers and takeovers of companies have not yet been adopted.

### ***European Forms of Business Organization***

Apart from the regulations aiming to harmonize national company laws, the European Union also adopted the regulations enabling the formation of supranational, European business organizations.





**The European Economic Interest Grouping (EEIG)** is a form of association of legal and physical persons from different member states that perform an economic activity. The EEIG has legal subjectivity and its bodies, i.e. the general meeting and directors. The role of an EEIG is to enable economic cooperation between enterprises from different member states, whereby EEIG member enterprises remain legally and economically independent. An EEIG cannot make a profit. The formation of an EEIG is published in the EU Official Journal. The formation, operation and legal status of the EEIG is regulated by the Council Regulation No. 2137/85 (O.J. L199 of 31 July 1985).

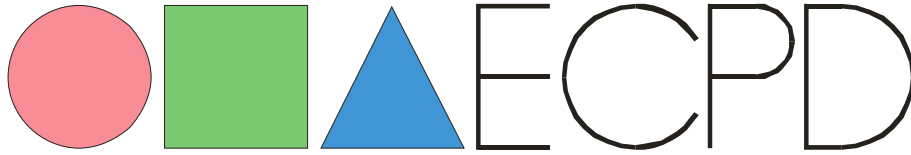
**The European Company (SE – Societas Europaea)** is a joint-stock company formed in accordance with the Council Regulation on the European Company Statute 2157/2001 (O.J. L294 of 10 November 2001). The SE enables the linking of companies from different member states by forming a new company, which is subject to the provisions of Community law. Before the adoption of this rule, companies from different member states could jointly establish a new company only in a form that was prescribed by the national legislation of the member state in which the company was registered. The Regulation on the European Company Statute contains provisions on the formation, bodies, annual accounts, winding up and bankruptcy of the European Company. A European Company can be formed by companies having their registered office in, or nationality of different member states. The minimum share capital is €120,000.

## **2. Competition Law of the European Union**

The predominant economic system in the EU member states is a free-market system, which implies the absence of government's intervention in the decision-making of enterprises and other economic organizations, as well as the provision of conditions for a fair market game. The Treaty establishing the European Community (Articles 81-89) and secondary acts adopted by the Council and the Commission with respect to the implementation of the mentioned Articles contain the competition rules that protect the game on the single EU market. They must be obeyed by legal and physical persons that take part in trade on the EU market, or by those whose actions may exert influence on competition on that market. The competition rules can be classified into three basic entities: the rules on the prohibition of monopoly (cartel) agreements; the rules on the prohibition of the abuse of a dominant market position and the rules on the control of enterprise concentration.

The prohibition of monopoly (cartel) agreements is stipulated by Article 81 of the Treaty establishing the European Community. The Council and the Commission laid down the rules on so-called block exemptions, which set conditions for the exemption of specified types of agreements from the principled prohibition. The prohibition of the abuse of a dominant market position is stipulated by Article 82. Detailed rules for the implementation of this Article have been established in the practice of the Court of Justice. The procedure relating to the control of enterprise concentration is established by the Council Regulation 4064/89.

The implementation of the competition rules within the competence of the Commission and the Court of Justice. According to Rule 1/2003, the powers for the implementation of the Community competition rules have been transferred also to the national bodies of member states.



### **3. *The Status of Public Enterprises in the European Union***

The Treaty establishing the European Community leaves the freedom to its member states to decide on the ownership form of enterprises. Enterprises can be in private and state ownership. The status of enterprises in state ownership and enterprises on which the government has a decisive influence on some other grounds, as well as enterprises entrusted with the performance of activities of general economic interest, is defined by Article 86 of the Treaty establishing the European Community. In principle, member states are free to establish special relations with enterprises in their ownership, or with those on which they have a decisive influence. They may entrust these enterprises with the performance of specified activities as their monopolistic or exclusive right so as to pursue specified public interests. The measures adopted by member states to that end must not be contrary to the EU competition rules. Enterprises entrusted with the provision of services of general economic interest may be exempted from the general regime established by the competition rules only if that is necessary for the fulfilment of their tasks.

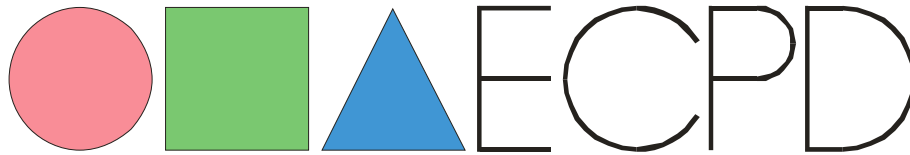
In accordance with Article 86, the Commission adopted secondary acts regulating the scope of the right of member states to exercise their monopolistic or exclusive rights in the performance of specified activities of general economic interest, such as: telecommunications, energy, radio and television, postal services and transport.

### **4. *EU Bankruptcy Law and the UNCITRAL Model Law on Cross-Border Insolvency***

The EU member states have different bankruptcy legislations, which causes problems when bankruptcy proceedings are instituted against an enterprise having property in two or more different states. The EU Council adopted the Regulation on Bankruptcy Proceedings (No. 1364/2000), thus ensuring the unification of bankruptcy proceedings in EU member states. The Regulation stipulates the international jurisdiction of EU courts over bankruptcy proceedings, applicable bankruptcy law, as well as conditions for the recognition and execution of decisions taken in the bankruptcy proceedings in other states. The court of a member state is authorized to conduct bankruptcy proceedings if the principal centre of the debtor's business activity is in the European Union. Applicable bankruptcy law is the law of the country in which the bankruptcy proceedings are conducted (*lex fori concursus*). Bankruptcy proceedings and decisions taken within these proceedings are automatically recognized in other member states.

In 1997, the UNCITRAL adopted the Model Law on Cross-Border Insolvency, which should serve as the model for drawing up national bankruptcy laws. The Model Law focuses on four issues which are of primary interest in the case of cross-border insolvency: the right of foreign persons to take part in the proceedings before bankruptcy courts; recognition of bankruptcy proceedings conducted in another country; assistance to the participants in bankruptcy proceedings so as to protect their legitimate interests, as well as cooperation between the relevant bodies of different states during bankruptcy proceedings.

After the adoption of the Model Law, the UNCITRAL undertook to make a draft of the Legal Guide on Bankruptcy Law which should help member states in drawing up their own bankruptcy laws, especially by pointing to different approaches to solving the specific problems of bankruptcy proceedings, as well as by recommending legal solutions that will contribute to more efficient and more effective bankruptcy proceedings.



## V INTERNATIONAL CONTRACT LAW

### A. PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS

#### *1. UNIDROIT Principles of International Commercial Contracts*

In 1994, the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) from Rome adopted the *Principles of International Commercial Contracts* and recommended all those interested to apply them in the manner that suits them. To a large extent, these principles reflect all legal systems in the world. Since they are intended for international commercial transactions, they also contain some provisions that are considered as offering the best solution, although they have not yet been generally adopted.

In the preamble to the Principles it is stated that, inter alia, they “may be used as a model for domestic and international law-givers”, which was done when some civil, commercial or international commercial laws were adopted or revised.

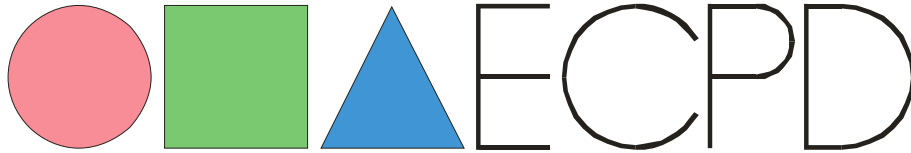
Many business associations have stated that the *Principles* reflect business practices and, thus, represent one of the most modern legal documents. The UNIDROIT Secretariat has been informed that in many contracts the *Principles* have been stipulated as applicable law in case of dispute. In that sense, the *Principles* are most often referred to in international sales contracts (in 50% of cases), but this is also done by the contracting parties in case of the contracts of international agency, capital construction, consulting services, carriage, insurance and the like. In some contracts, the *Principles* are referred to as a source for the interpretation of the contract, while in some others they are called *lex mercatoria* and are a supplement to a particular contract.

There is no doubt that international arbitrations will derive the greatest “benefits” from the Principles. It is already pointed to the cases in which the arbitrators referred to the Principles so as to make a decision. The first such case was brought before the Arbitration of the International Chamber of Commerce in Paris in 1995, while the second dispute was settled before the New York Arbitration in 1996. In two cases, which were brought before the Federal Chamber of Commerce in Vienna and the Arbitration of the International Chamber of Commerce in Paris in 1995, the Principles were applied so as to fill the gaps in the Vienna Convention, which was stipulated as applicable law.

The success in practice of the UNIDROIT Principles over ten years has surpassed the most optimistic expectations of UNIDROIT. For this reason and under the suggestions of the business people, the 1994 Principles were revised and in 2004 the new edition of the Principles was published with additional topics of interest to the international legal and business community (ECPD in 2006 published this new edition of the Principles both in English and Serbian).

The new version of the Principles contains the following chapters:

- Preamble
- General provisions
- Formation and authority of agents



- Validity
- Interpretation
- Content and third party rights
- Performance
- Non-performance
- Set-off
- Assignment and rights, transfer of obligations, assignment of contracts
- Limitation periods

Each chapter contains numerous provisions being of importance for relevant principle. Many legal scholars believe that the UNIDROIT Principles, the Principles of the European contract law, as well as the Vienna Convention on contracts for the international sale of goods, represent an indication of the creation the future *European Civil Code*, which the legal profession and even more the business circles will undoubtedly welcome.

The Principles have the following chapters:

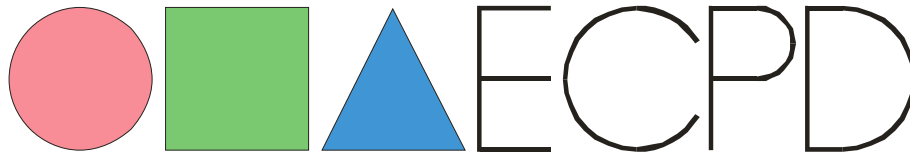
- General Issues of International Commercial Contracts
- Formation of Contracts
- Validity of Contracts
- Interpretation
- Subject-matter
- Performance
- Non-performance

Each chapter contains numerous provisions being of importance for each concrete principle.

## ***2. Principles of European Contract Law***

The Principles of European Contract Law (PECL) were elaborated by the special Committee established by the Commission on European Contract Law headed by the Danish Professor Ole Lando. The members of the Committee were numerous European experts in the field of theory and practice of contract (civil) law. The elaboration of PECL started in 1970 and after a long and thorough job, the first two parts were published in 1988, and the third in 2002. Due to the exceptional contribution to this endeavour done by professor Lando in the legal circles of Europe and the world this Committee was named "Ole Lando Committee". Even the Principles are often referred to as "Ole Lando Principles". It is at the very outset important to emphasise that Ole Lando Principles, regardless of their "private initiative" for their elaboration, represent the most known and widely referred "non-governmental" project of the unification in the field of private law. According to many legal experts the Principles are the introduction into the elaboration of the European Civil Code. For this reason the knowledge of these Principles is the necessity for all those who wish to deal with the problems of European private law.

The principles contain 17 chapters with rules related to: general provisions, formation of contracts, authorization, validity, interpretation, subject-matter and effects, performance, non-performance and legal means, special legal means in case of non-performance, obligations of more parties,



Professor Lando and the group of lawyers representing the initiators for the elaboration and adoption of the Principles, started from the assumption that the legal rules of the countries – members states of the European Union differ between each other. To their views that is very much in contrast with the establishment of the European single market. For business people (merchants) the reference in the contract during its conclusion to the applicable law of one of the states represents a risk, since such law is often unknown to them. This may easily be the reason for abandoning the idea of a transaction in general. Taking this into account, this fact presents an obstacle for international business. And this is true not only for the partners from the European Union and those outside this regional union, but even when the contracts are being concluded between the partners within the European Union. With the Rome Convention on law applicable to contractual obligations of 1980, European Community made an attempt to offer to business people the rules on "choice of law". In spite of the fact that this Convention was a contribution for regulating this problem it did not satisfy the needs of the business people for the integration of European market on the legal level. And while on the plan of public law (creation of the legal institution) of the European Union remarkable achievements were accomplished and efforts are continued in that respect, activities on "europeasation" of private law considerably fall behind it.

The actual adoption of the Principles on the wide European and world plan may be looked as a contribution for europeasation of private law. There is no doubt that a big number of directives, recommendations and other acts of the European Council and the Commission facilitates and furthers this process. The particular and until now unknown method of adoption of these Principles will open the avenues to make European unification of rules in the other field of private law.

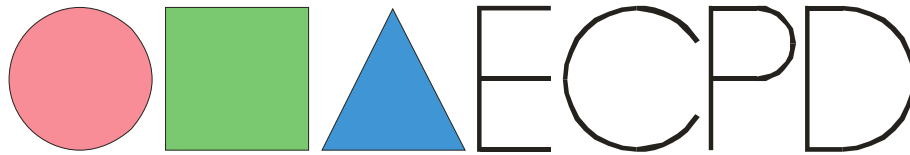
It is interesting to notice that many arbitrations and the European Court of Justice often refer to the Principles in the field of contract law. There is a view according to which the Principles may speed up the adoption of the European Civil Code, in which they will be an important part.

## **B. INTERNATIONAL SALE OF GOODS**

### ***1. Contract for the International Sale of Goods***

The contract for the international sale of goods is a legal instrument by means of which international trade (imports and exports) is affected. What criteria should be applied so that one business transaction can qualify for an international one depends on whether it is proceeded from the subject (seller and buyer) or from the object and its movement from the territory of one country to the territory of another.

It is important to note that international trade has assumed enormous proportions and that it is still showing an upward tendency thanks, in particular, to tremendous technological achievements that have contributed to a rise in output and improvements in the methods by which contracts are concluded (i.e. the on-line method by the use of the Internet). Today's rule is that not one national economy can be autarchic or, in other words, closed or isolated from global economic trends. By its exports and imports, every national economy is exposed to a



broader influence of the world market, which encourages domestic production and improves the quality of domestic products.

The sources of international sales law are, above all, international regulations. In practice, however, so-called autonomous law, i.e. general conditions and standard contracts and practices, plays a great role.

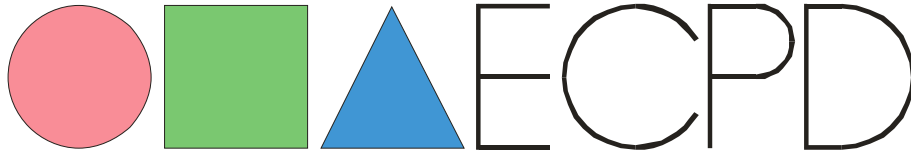
Insofar as uniform legal regulations are concerned, attention should be devoted to the United Nations Convention on Contracts for the International Sale of Goods, which was adopted in Vienna in 1980 (this is why many of them call it the Vienna Convention). This Convention has so far been ratified, acceded to or adopted by over more than 100 countries. The Federal Republic of Yugoslavia ratified this Convention in 1988. It should be noted that ex-Yugoslav republics adopted this Convention according to the principle of succession. This means that applicable law in relations between the states, ex-Yugoslav republics, should be the UN Convention on Contracts for the International Sale of Goods.

On the other hand, it should be noted that all EU countries (except Britain and Ireland) ratified the Convention on Contracts for the International Sale of Goods. This was also done by the United States, Russian Federation and almost all ex-socialist countries of Central and Eastern Europe. This Convention was also ratified by many former British colonies in Africa and Asia, as well as by a great number of Latin American countries. Since the Vienna Convention anticipates a reservation according to which a ratifying country may narrow the scope of its application, it is necessary to determine – while concluding the contract with a partner from the country that has ratified the Convention - whether during its ratification any reservation was made and what it means for the contracting parties.

Contracts for the international sale of goods are based on numerous standard contracts and general conditions, the best known being those which have been prepared by the UN Economic Commission for Europe. This refers especially to the sale of capital equipment, as well as to the sale of timber, coal, citrus fruits and some other products. In addition, there are standard (adhesion) contracts, which are prepared by associations of trading companies and which stipulate the rights and duties of the contracting parties in advance. In accepting these conditions (which can be tacitly applied), the author of such contracts often anticipates concessions for himself. The other contracting party does not have to be familiar with them, but they can have far-reaching consequences in case of a dispute.

The issues that should be taken into account in concluding an international sales contract are:

- The ways of concluding a contract (oral, written, electronic)
- Offer, acceptance, moment of conclusion, cancellation
- Seller's obligations: delivery of goods and submission of documents (special obligations when a contract is concluded through an electronic medium)
- Conformity of goods with the contract and the rights or claims of third parties
- Overcoming the risks (the role and significance of INCOTERMS – the latest version 2000)



- Buyer's obligations: payment of the price (in case the price is not stipulated by the contract) and acceptance of goods
- Exemption from liability (in case it is impossible to fulfil the contract due to *force majeure*)
- Indemnification for damage and the methods by which it is assessed
- Breach of contract and obligations of the contracting parties
- Settlement of disputes (determination of the court, arbitration and applicable substantive law)

Special issues of significance for the international sales contract:

- Overcoming the risks and significance of INCOTERMS 2000 (CIF, FOB, C&F, ex works, delivered at frontier, etc.)
- The role and significance of practices applied to the international sales contract (explicit or tacit application)

## 2. *Electronic Commerce*

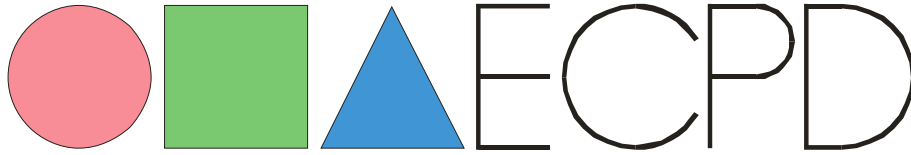
Most jurists would answer in the negative should they be asked whether “electronic law” exists or is being created as a separate branch of law. They would point out that computer technology only provided a faster and more efficient method of transacting business. However, in the countries that were the first to take advantage of modern technologies in transacting business (such as the United States, for example), these authors published the comprehensive study entitled “Electronic Contracting Law” as early as 1990. In this study, they point to the essential differences between the traditional and electronic method of transacting business.

Electronic commerce is especially suitable for small- and medium-sized enterprises, as well as for the economies in transition. By searching through the Internet, all those interested can find the offers that suit them and conclude on-line contracts with partners from any part of the world. The World Trade Organization (WTO) laid down the general principles, facilitating the sale of services. The WTO suggests to all member-countries to eliminate their tariff and tax burdens so as to enable all users to make maximum use of their computers in domestic and foreign transactions. In this area, as emphasized by M. Moore, General Director of WTO, “any protectionism equals self-exclusion”.

In analyzing the hitherto results of transacting business by the use of a computer, one can arrive at a conclusion that the best results have so far been achieved in banking and financial institutions. It is especially pointed to the role of so-called smart cards, which eliminate the need for cash, so that all transactions are carried out by using virtual money, thus bringing great relief both to users and banking institutions. As already said, all this should eliminate cash payments, thus contributing to the maximum security of business transactions and the parties thereto.

The questions that impose themselves with respect to electronic commerce (and electronic law) are as follows:





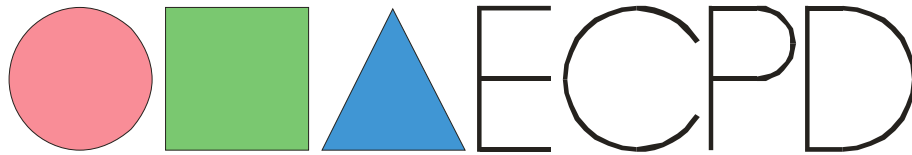
- Sources of electronic law
  - Standards (UN/EDIFACT, ANSI X 12)
  - Codes of business ethics in transacting business through an electronic medium
  - Self-regulating agreements on electronic commerce
  - Model laws which are drawn up by professional domestic or international organizations
- International organizations dealing with the unification of rules for electronic commerce
  - UN Commission for International Trade Law (UNCITRAL)
  - International Maritime Committee (CMI)
  - World Trade Organization (WTO)
  - International Chamber of Commerce (ICC)
  - European Union (EU-EC)
- Legal questions of significance for electronic commerce
  - Formation of on-line contracts
  - Legal implications of data protection (determining the authenticity of a message)
  - Certification bodies and their significance with respect to public and private keys
  - Responsibility of the contracting parties (addresser, addressee, service provider)
  - Errors and frauds in the electronic transmission of messages
  - Permissibility and evidential force of an electronic message

### ***3. Contract for the Inspection of Goods***

The contract for the inspection of quality, quantity and other properties of goods in international transactions is extremely important, because the inspection certificate has often to be enclosed with other documents when opening a documentary letter of credit. This inspection is especially important in the case of distance sale of goods when it is not rational (costs) for the buyer to be present during pre-shipment inspection. Moreover, the buyer is often not skilled enough to inspect the goods being imported. Thus, he hires an organization to carry out inspection and issue an inspection certificate. The inspector must be impartial and qualified for checking the goods in question. There are numerous organizations in the world that specialize in this activity, the most important being Société Générale de Surveillance, Geneva, Bureau Véritas, Paris, and Lloyd's, London.

Inspection is performed not only when goods are in question (although it is most frequent), but also in the case of other commercial transactions. When insuring vessels, aircraft and other means of transportation, for example, their classification is made on the basis of inspection performed. Only classified vessels can be insured and the amount of insurance premium depends, apart from other elements, on the class of vessel or other means of transportation (this inspection is most often performed by Lloyd's).





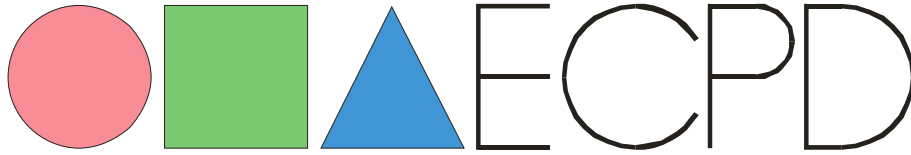
Quality and quantity control in international trade is important because in the case of distance sale the quality of goods is most frequently checked before shipment (which is in the interest of both the buyer and the seller). Due to its great significance, the issue of pre-shipment inspection was explicitly regulated for the first time at the international level within the GATT in 1992, when the Agreement on Pre-shipment Inspection (PSI) was adopted. It was adopted at the initiative of developing countries, which pointed out that due to corruptive practices of customs and other authorities the goods ordered and the goods that arrive at their destination often differ in quality and other properties. The basic provision of this Agreement concerns the prohibition of discrimination during inspection. It is also anticipated that all inspection procedures and criteria must be impartial and that all interested exporters must be treated on an equal footing.

From the viewpoint of commercial law, the novelty in this Agreement is the right of the inspecting organization to check the price entered by the contracting parties into their contract. In the hitherto practice, this was absolutely impermissible, since the contracting parties had the right to contract any price they wish, regardless of whether it corresponds to the quality and quantity of goods to be exported. To eliminate any abuse, Article 2, Item 20, of this Agreement gives detailed instructions as to how the price should be checked. In principle, one should consider the export price of similar goods in the exporting country, as well as margins and other components being relevant for the export of these goods.

The European Community i.e. European Union (EU) have issued a number of directives relating to the inspection of specified products. This refers specifically to the deliveries of natural gas, electronic equipment, electromagnetic compatibility, noise emission, children's toys, medical equipment, food, drugs, cosmetics, etc. Upon inspection, which is performed by authorized organizations, the product or service in question is labelled with "CE", which guarantees that the goods inspected conform to the European standards.

The questions that impose themselves with respect to the inspection of goods include as follows:

- The GATT Agreement on Pre-shipment Inspection and its significance
- The form and method of limiting the autonomy of will of the contracting parties
- The principles that must be observed by inspecting organizations
- Settlement of disputes
- Inspection performed within the EU
- Significance of quality standards
- Significance of certificates with respect to the opening of a documentary letter of credit
- Responsibility of the inspecting organization



## **C. INTERNATIONAL TRANSPORT OF GOODS**

### ***1. Contract for transport of goods***

For years already, the contract for the transport of goods has been a typical contract of international commercial law without which it is impossible to carry out many other commercial transactions. This contract is an inseparable companion of the contract for sale of goods, foreign investment contract, capital construction contract, as well as other contracts, which constitute the core of a country's foreign economic relations.

Since the earliest days in the development of human society, transport has been a mediator between production and consumption. In modern times, it has become an indispensable factor in the operation of the market mechanism and a basis of any imports and exports. As the indispensable factor of social life, transport, in a way, represents also an independent, so-called transport economy or transport industry, as is sometimes called by economists. Three basic characteristics of modern transport – economy, speed and safety – are of such significance that the government, in large measure, bases the strategy of its foreign economic relations and foreign trade policy on them.

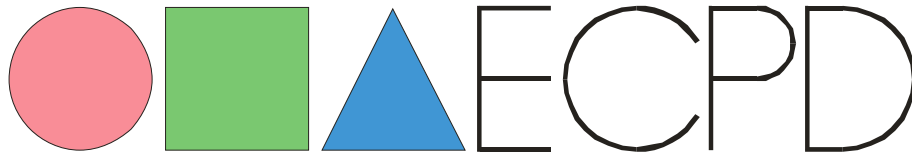
The contract for transport of goods is the basic institution of legal superstructure over transport activity which, in addition to its clear national aspect, has a marked international dimension. Various modes of transport – maritime, rail, road and air – imply the specialization of transport depending on the specifics of the transport route and transportation facility in question. Inter-modal transport of goods appears as an expression of the current needs that various transportation facilities and related documents should be used rationally and in the most favourable legal regime.

The contract for the international transport of goods has another two important characteristics:

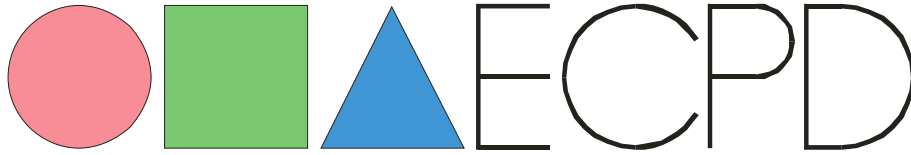
- There is a great number of sources of law, especially international conventions, and
- a constant tendency towards unification on the international and comparative plane.

### ***2. International conventions and rules regulating transport***

- Maritime and river transport
  - Convention for the Unification of Certain Rules relating to the Bill of Lading, 1924
  - Convention for the Unification of Certain Rules to Maritime Liens and Mortgages, 1926 and 1967
  - Convention for the Unification of Certain Rules with respect to Collisions between Vessels, 1910 and 1967
  - Convention on the Navigation Regime of the Danube, 1948
  - Hamburg Rules, 1978
- Rail transport
  - Berne Convention (CIM), 1890, with amendments made in 1896, 1905, 1923, 1933, 1952, 1961 and 1970
  - Rules for Transport of Dangerous Cargo
  - International Rules for Combined Transport



- Rules for the Transport of Express Freight Goods
- Arbitration Rules
- Road transport
  - Geneva Convention on the Contract for the International Carriage of Goods by Road (CMR), 1956
  - Geneva Convention on Road Transport, 1949
- Air transport
  - Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw Convention), 1929, with amendments made in 1955, 1971 and 1975
  - Convention on International Civil Air Transport (Chicago Convention) 1944
  - Guadalajara Convention, 1961
  - a number of criminal law conventions relating to struggle against jeopardizing the safety of civil aviation, adopted in Tokyo, 1963, The Hague, 1970 and Montreal, 1971



## **VI INTERNATIONAL CONTRACTS FOR FINANCING AND CONSTRUCTION OF PROJECTS**

### ***1. Contract for Construction and Engineering Works Abroad***

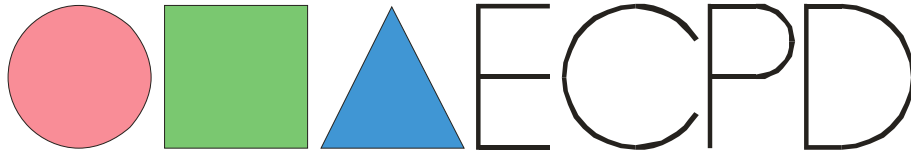
The execution of construction and engineering works abroad is an extremely important contract. Thus, it is no wonder that this issue is regulated by numerous international and regional organizations. So, in 1994, the United Nations Commission for International Trade Law (UNCITRAL) adopted the Model Law on the Procurement of Goods, Works and Services. Similar regulations governing public-sector purchases were adopted by GATT in 1981, as well as by the European Union. The execution of construction and engineering works abroad is a complex legal transaction which begins with the invitation of bids, selection of the best bidder, preparation of the contract and awarding of the construction contract to a specified contractor. As of late, these relations have increasingly been considered in a complex way. Thus, one package most often contains all terms and conditions regarding the execution of such a contract, including the status of consulting organizations, which are, as a rule, engaged when large projects are in question.

Insofar as construction and engineering abroad is in question, the following issues are of special significance:

- Hiring a consulting organization for the preparation of a feasibility study
- Invitation of bidders
- Evaluation of the best bid
- Conclusion of a contract
- Obligations of the employer
- Obligations of the contractor
- Payment of the contractor through interim statements
- The role and importance of the chief engineer
- Hand-over and acceptance of a finished project
- The liability of the contractor and designer for the safety of the structure after its hand-over
- Application of the FIDIC General Conditions, adoption of applicable law, arbitration

### ***2. Consulting Contract***

The consulting contract is closely related to the construction and engineering contract, but also appears as an independent legal transaction. The sources for regulating this contract on an international plane are the FIDIC General Conditions, whereby some conditions refer to the consulting engineer's services in connection with the preparation of pre-feasibility studies, while others regulate the designing and supervision over the execution of works. The International Bank for Reconstruction and Development (World Bank) has prepared the Guide on the Relationships of the World Bank and Its Borrowers with Consulting Engineers. The UN



Economic Commission for Europe has also prepared its Guide relating to the consulting engineer's status and the provision of relevant services within technical assistance.

As regards the consulting contract, the following issues are of significance:

- Relationship between the ordering party and consulting firm
- Relationship between the contractor and consulting firm
- Percentage of construction costs to be awarded to the consulting engineer
- Lump or fixed sum
- Remuneration for the consulting engineer, whether on a time or per diem basis

Apart from the preparation of tender documents and other studies necessary for the proper execution of a project, the consulting engineer is also obliged to supervise the execution of works, which is done in the employer's interest. An additional obligation of the consulting engineer can be to train the employer's personnel for running the project under construction.

### ***3. Privately Financed Infrastructure Projects (According to the BOT System)***

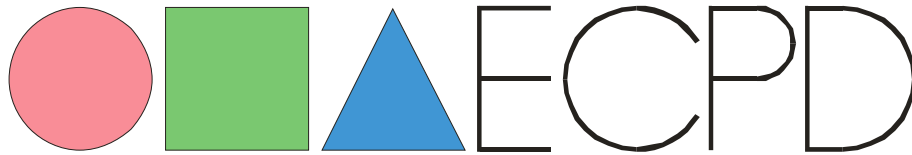
The BOT (build-operate-transfer) system is a model of foreign investment according to which a specified project is financed. The construction of a project includes all stages – from the idea to its realization. Under the BOT agreement, it is anticipated that after the completion of a project and its operation for a specified period, it should be handed over to a domestic agent. The BOT contract is extremely complex from both the economic and legal point of view, because it encompasses a number of different contracts.

There are various forms of BOT agreements. The basic one is the BOT (build-operate-transfer) agreement but many other such agreements have been developed parallel to it: BTO (build-transfer-operate); BROT (build-rent-operate-transfer); BLOT (build-lease-operate-transfer). There are also ROT, MOT, MOO, ROO, DBFO (all of which are the variations of the BOT agreement/contract). The relevant legal questions depend also on the type of the selected BOT contract, so that it is difficult to state all relevant legal issues.

As for international organizations dealing with this contract, the UNIDO was especially active. It prepared the Guidelines on Infrastructure Development through Build-Operate-Transfer (BOT) Projects. The UN Commission on International Trade Law (UNCITRAL) deals with the legal aspects of these contracts. It prepared and published the Legal Guide on Privately Financed Infrastructure Projects. In order to avoid any later misunderstanding with respect to the interpretation of the terms used, it is necessary to define the basic notions appearing in the Agreement. Those are specifically “public services”; “public institutions”; “concessions”; “BOT” and similar terms; “project agreement”; “project consortium”; “project company”; reference to local authorities; bidding and selecting the procedures; turn-key contracts; design and construction contracts.

For financing infrastructure projects, it is possible to use:

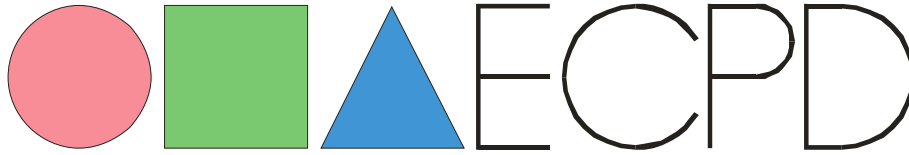
- Equity capital
- Commercial loans
- Loans and credits from international financial institutions



- Assistance of export credit agencies
- Combination of public and private financing

The parties included in a capital project are the particular country, contracting company, lenders which, together with the consortium, determine in detail all risks to which they may be exposed before, during and after the execution of a project (in this regard, the relevant legal issues are delays, defects and other reasons for the non-performance of a contract). The participants in such a transaction are also international financial institutions and export credit agencies, contractors and suppliers, as well as the insurer, because in BOT transactions, all parties are continuously exposed to risks, and all those risks are covered by reputed insurance companies in advance.

As regards the above issues, the contracting parties should define their rights and obligations precisely, as well as anticipate arbitration and applicable law for all issues that have not been covered by the contract.



## VII INTERNATIONAL CONTRACT FOR INVESTMENT AND TRANSFER OF CAPITAL

### *1. International Financial Leasing*

Leasing is a new type of contract, which appeared first in the United States and then, after World War II, in Europe and, due to its great advantages, was met with general approval. It was also adopted by developing countries as one of the ways to ensure technological development despite the lack of financial resources. It should be noted, however, that leasing is an expensive transaction and that it suits technologically advanced countries.

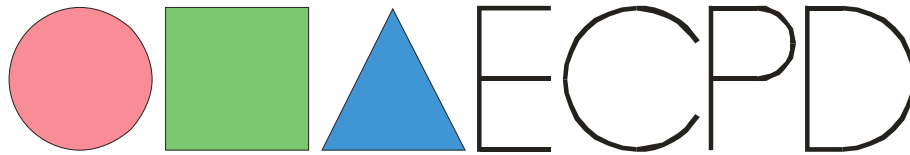
In essence, leasing is a contract under which one party, the lessor, gives to another party the object of the leasing transaction for use. This object is mostly equipment, but it may also involve complete installations, which the lessor produces by himself or procures from someone else. The other party is the lessee to whom the right of use is transferred for an appropriate price, which is paid by instalment. After the expiry of the agreed period, which depends on the type of transaction and contract, the lessee will either return the equipment, or renew the contract (at lower cost), or buy equipment.

The international financial leasing has specific characteristics. As a rule, it is a long-term contract with the basic term coinciding with the service life of equipment, so that it is regarded as a full depreciation contract. The specific feature of this contract is that the bearing of risks and costs is “transferred” to the lessee. This is justified by the fact that the lessor (who remains the owner of the equipment throughout the contract period) finances the transaction, while the lessee uses the equipment, so that he should also bear the risk. There is direct and indirect leasing. Indirect leasing (or leasing in a “narrower sense”) is regarded by many as “genuine leasing”. In this type of leasing there are three parties: the lessor, the lessee and the supplier of the object of leasing. This trilateral relationship is very complex from both the economic and legal point of view. Since the lessee has no resources of his own, he refers to the lessor, who will procure the equipment for him from the manufacturer and will finance the complete transaction. On the other hand, the lessee will also contact the manufacturer so as to determine with him the technical and financial details of the equipment.

The draft Convention on International Financial Leasing, which was worked out by the UNIDROIT and adopted at the conference in Ottawa (Canada) in 1988, provided a basis for the adoption of the Convention, which came into force in 1994. This Convention protects the leaser’s interests and this is why many countries are reserved about it. Namely, under this Convention the lessor may be released from responsibility for the defects of his equipment or a delay in its delivery, thus disrupting the balance between the contracting parties to a considerable extent.

As for the leasing contract, the following issues are of special significance:

- The rights and duties of the contracting parties
- Payment of the price by instalment



- The lessee's right to extend the term of the leasing contract
- The lessee's right to return the used equipment after the expiry of the contract period
- The lessee's right to buy the equipment (at a reduced price)
- Risks associated with international financial leasing
- Costs of maintaining the object of leasing
- The breach of the leasing contract and the rights of the lessor and the lessee in this respect
- The extent to which a leasing transaction is in the interest of developing countries
- The most appropriate leasing contract for developing countries

## ***2. International Franchising***

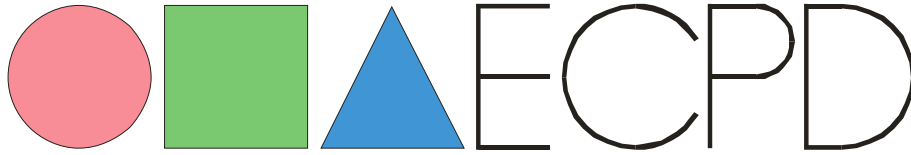
The basic assumption for the establishment of a franchising relationship and, thus, for the conclusion of a franchising contract is that the franchiser is an economically strong enterprise, with goodwill and products or services that are known to consumers for their quality and recognized by their trade mark, trade name or other external designations. The franchising contract is a contract concluded between economically unequal partners, whereby the franchiser has a dominant status. The franchising contract is concluded in writing, whereby the franchiser's standard contract is used (such contracts are usually made for a period of 2 to 20 years).

Franchising is used in various sectors but is especially popular for fast food restaurants. The world's best known restaurants of this type are McDonald's, Kentucky Fried Chicken, Sea Food and others. Many well-known retailers dealing in consumer goods, ready-made clothing, cosmetics, electronic equipment, furniture and household appliances also operate under the franchising system (Benetton, Stefanel, Pedrini, Lacoste, Revlon, etc.). Franchising is also practiced in the sale of automobile spare parts (tyres) and in rent-a-car business (Hertz, Rent-a-Car). As for tourist industry, many hotels also operate under the franchising system, providing services to richer clients (Hyatt, Hilton, Holiday Inn or Sheraton). This also applies to motels and campsites, which are intended for "average" guests.

Sources for regulating this contract can be found in the EC Regulation 2790/99 on the implementation of Article 81 (3) on vertical agreements. The International Institute for the Unification of Private Law (UNIDROIT) has prepared the Legal Guide on International Master Franchising. In September 2002, UNIDROIT also placed at the disposal of the international community the Model Franchise Disclosure Law. The Model Law is intended to provide national legislators, who have decided that legislation specially aimed at franchising should be introduced into their legal system, with a source of inspiration, with an instrument that they may consult and use as a model or blueprint should they deem it appropriate. It is a model, and therefore in no way binding. The Model Law is intended to encourage the development of franchising as a vehicle for conducting business, and recognises that franchising offers the potential of increased economic development especially among countries seeking access to know-how.

According to the EC regulations, franchising is a set of industrial and intellectual property rights concerning brands, trade names, logotypes, models, copyrights, know-how or patents, which are





used for the further sale of goods or provision of services to end users. This definition points clearly to the complexity of this contract. The minimal obligations under the franchising contract are as follows:

- the use of a common name or logo and a uniform presentation of the premises and/or transportation facilities;
- transfer of know-how by the franchiser to the franchisee;
- continuing provision of commercial and technical assistance to the franchisee during the contract period.

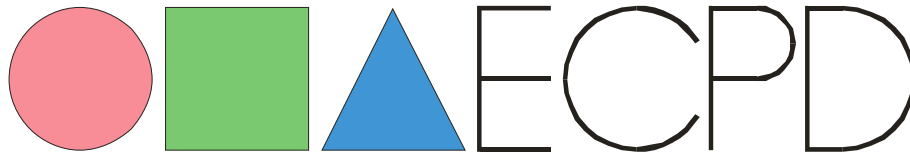
Apart from this ordinary franchising contract, there is the so-called master franchising agreement under which a foreign franchiser (MF) grants exclusive rights to a domestic enterprise (DF) to conclude contracts with sub-franchisees in the domestic territory under the conditions that will be agreed by the MF and DF (this formula is often used by the American company McDonald's for opening its restaurants abroad). This is actually a triple contract with the characteristics that make it different than the ordinary franchising contract.

As regards the ordinary and master franchising contracts, the following questions impose themselves:

- The franchiser's obligations (transfer of specified knowledge about enterprise organization, methods of attracting clients, as well as the basics of calculation and financing)
- Training of the franchisee and his personnel
- Assistance in enterprise management (computer-assisted data processing, bookkeeping, etc.)
- Sales promotion at the point of sales and advertising
- The franchiser's control measures, including the control of enterprise management and technical supervision over the products or services
- The franchisee's obligation to keep the business secret
- The question of disclosure of specified data on the part of MF
- The choice of applicable law and court (arbitration)
- The termination of the master franchising contract (the termination or breach of the contract between the MF and DF has also specified legal effects on sub-franchisees)
- Consequences of the early termination (cancellation) of the contract
- Settlement of disputes

### **3. Concession Agreement**

In the broadest sense of the word, concession implies a license that may be granted by a public authority to domestic and foreign (natural and legal) persons for the performance of some business activity under the prescribed conditions. Historically speaking, concessions trace their origins to mediaeval regalia, on the basis of which the rulers exploited mines, forests, rivers, roads and the like, or transferred this right to private persons. According to the current doctrine, a government, which concludes a concession agreement, transfers only the right to



the exploitation of oil or ore (mineral raw materials) deposits for a specified period and not the title to these deposits. This type of activity is most often performed by multinational companies, which are often granted broad exploiting property rights to oil deposits, mines and forests in developing countries. In the legislations of developed and EU member countries, there are restrictions on specified concessionary activities when foreign citizens are in question. This is logical because by transferring the right to a foreign citizen, the state limits to some extent its sovereignty. However, such agreements are now widely used, because they enable countries (especially developing ones) to obtain additional resources.

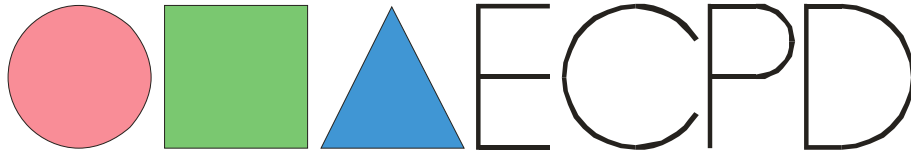
There are various ways in which a concession agreement can be concluded but, in essence, it is an agreement between the government authority and the concessionaire. The forms of these relationships can vary: joint ventures, technical assistance agreement, service contract, operation contract or B.O.T. transactions, although it is held that these are not traditional concession agreements. However, regardless of its form, a concession always anticipates a complex system of mutual rights and obligations between the concessionaire, on one side, and the government, on the other. This relationship is a mixture of public and private law. It is emphasized that there are two basic types of concession: a) a concession for public services (railways, postal services, etc.) and b) a concession for the exploitation of natural resources and property in general use (mining concessions, for example).

The concession-granting procedure may consist in a public bid and the submission of requests by interested parties. The concession enactment is always adopted by a public body and, as a rule, has the form of a law or other documents adopted on the basis of legal authorization. For the performance of a concessionary activity, the concessionaire establishes a concessionary company. The concessionary relationship is terminated upon expiry of the contract period by cancellation (if the agreement was made for an indefinite period of time), by breach (by consent or unilaterally) and upon termination of the legal person's status of a concessionaire. This relationship may also be terminated by the purchase of the concession, whereby this purchase can be voluntary or compulsory. A concession may be terminated in case of the destruction or depletion of the subject of concession, abandonment of the concession, as well as the nationalization or expropriation of the subject of concession. In case of the breach or termination of the concession agreement, the question that imposes itself is linked to the indemnification for damage, which differs from the relevant rules in conventional contractual relations.

International concession agreements also provides for an applicable clause in the case of dispute. Generally, that is the right of the state granting a concession. The international arbitration (ad hoc or institutional) settles disputes in most of the cases.

With respect to the concession agreement, the following questions can be posed:

- The legal nature of the concession agreement based on public or private law (contract)
- The issue of the limitation of the sovereignty of the state granting a concession
- Making a distinction between the concession agreement and other similar agreements
- Risks to which the government (or some other public body) and the concessionaire are exposed
- Benefits to be derived by a developing country from a concession



- Securing rights of the government granting a concession to natural sources being the object of the concessionaire's exploitation
- The concessionaire's right to request the breach of contract (as a rule, this right is anticipated for the government granting a concession)
- Changed circumstances and release from responsibility for the non-fulfilment of the agreement
- Determining the amount of indemnity in case of the termination of the concession agreement

#### ***4. Joint Venture Contract***

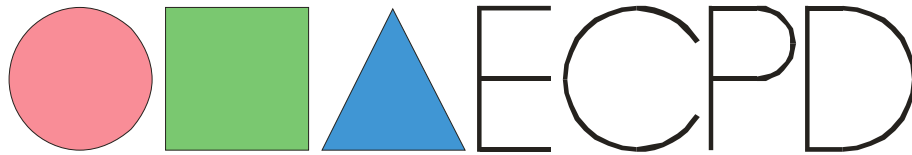
Capital may be invested in the form of portfolio investment, direct investment and joint venture. The basic motive of private investor to invest their capital is to achieve a surplus profit rate, either on the basis of the ownership of capital (interest) or on the basis of the participation in entrepreneurship (dividends). In contrast to private capital, public capital does not always have to be motivated by the rate of profit. It is often invested with a view to achieving political aims.

***Portfolio investment*** occurs by investing in bonds and other securities. In the case of such investments, the investor, as a rule, does not participate in production management nor does he perform control over the enterprise. His basic aim is to earn fixed interest on securities.

***Direct investment*** differs from portfolio investment in the extent of control performed by the investor. In the case of direct investment, control does exist, but it does not have to be complete. The factual question is how many shares are necessary so as to regard one investment as direct. Sometimes the stake has to be over 50% while in some cases 15% is enough to have control over the governance and management of an enterprise. This form of investment is favourable for both contracting parties. It enables the establishment of lasting and direct economic relations between the investor and the organization in which capital is invested, while the question of ownership and governance is pushed into the background. Direct investment has some advantages for investors over other forms of international movement of capital, because it enables the owner of capital to expand production, sell his technology, expand and win new markets and the like.

***Joint venture*** is a kind of investment, whereby the owners of capital manage jointly the resources invested and take care of their utilization, while the amount of profit depends on the performance of their joint venture. Whereas in the case of direct investment, the foreign investor appears, as a rule, as the only agent and organizer of production, under a joint venture contract the foreign investor acts in cooperation with the domestic partner. Joint venture is defined as an "agreement made by two or more persons (legal or natural) to pool labour and/or assets with a view to performing an activity, whereby they will share both the profits and losses on an equal footing unless otherwise agreed". Each party bears individual and unlimited liability for the obligations arising from the joint venture contract regardless of their investment in the transaction. Mutual rights and obligations of the partners are stipulated by a contract.

Joint ventures are representative of the complexity of production, technical and financial cooperation between partners. This type of investment provides respective advantages to both

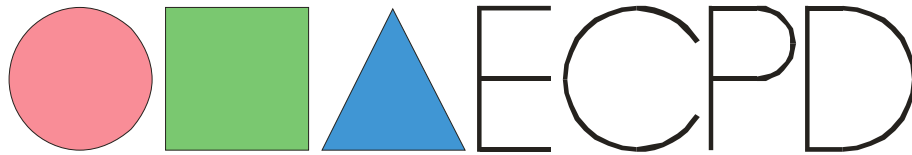


parties and lifts many barriers that stand before classic direct investment. Joint ventures purport a joint decision making process that often evokes a series of practical difficulties.

In the EC law, joint venture is considered in the context of the competition rules. In 1989, the EC Council adopted the Regulation on the control of concentrations (amended in 1997, containing specific rules for the control of joint ventures). In the 1989 Rules, a distinction was made between concentrative and cooperative joint ventures, but this division was abandoned in the later EC regulation (1997), since it proved to be inadequate for the prevailing market situation. Instead of this division, the concept of joint venture with complete functions was introduced. This means that a joint-venture enterprise should have its management that will manage its activities and the resources necessary for the lasting performance of economic activities stipulated by the contract. Such joint venture is regarded as a concentration which applies to European Commission for inspection, under specific circumstances.

The following questions with respect to joint ventures can be posed:

- Forms of investment
- Rules relating to joint ventures in the EC Regulation on the control of concentrations
- Guarantees
- Approval for and registration of an enterprise
- Joint activities in third markets
- Tariff and other concessions
- Questions relating to the transfer of profits
- Obligation to reinvest a part of the profit in the same or another enterprise
- Termination and liquidation of the joint venture
- Settlement of disputes

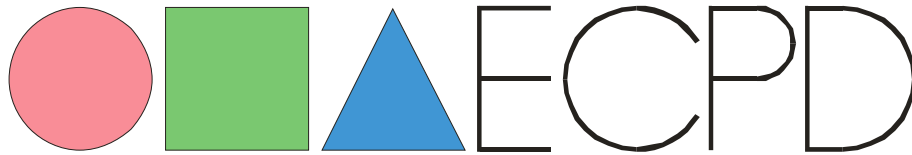


## VIII LAW OF INTERNATIONAL PAYMENTS

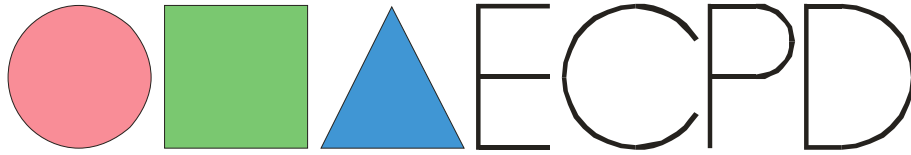
Modern trade in goods and services, especially on an international scale, is inconceivable without the use of modern payment instruments and system of security. The movement of goods and services is accompanied by the flow of money as their value equivalent. Payment occurs as the other side of a business transaction. Hence, safe and efficient instruments and modalities of payment and security system are a vital prerequisite for a successful flow of goods and services on the market. By its coercive regulations, the government takes care that this precondition is provided when domestic trade is in question. In international relations, however, certainty and efficiency of payment and security of payment depend primarily on the quality of the instruments used for this purpose. The vigorous growth of international trade in the 20th century brought about the creation of specific payment instruments by businessmen, banks and different business and legal associations (so-called autonomous business law) which one must know because, in the opposite, it is impossible to transact business on the international market. Therefore, modern businessmen and jurists specializing in business law should be acquainted with those instruments as much as possible.

Apart from payment instruments being in charge of the government (clearing payments), there are instruments which can be freely disposed by economic agents. Parallel to traditional instruments of this type (bank transfer, counter-trade), new instruments were created (documentary letter of credit, documentary collection) which now account for 80-90% of all free foreign currency payments in international transactions. The bank guarantee also affirmed itself as the most reliable and legally best instrument of payment security. These payment instruments and system of security are regulated in a special way, by sources of autonomous international business law. Those are the Uniform Rules and Practice for Documentary Credits (the latest revision of 1993), Uniform Rules for Collections (the latest revision of 1995) and Uniform Rules for Guarantees on Demand (the latest revision of 1992), which were adopted within the International Chamber of Commerce in Paris. These instruments are employed by banks and other economic agents from all countries in the world to such an extent that they have become the most universal legal documents of our times.

- General Characteristics of International Payments
- Instruments of free foreign currency payments
  - International bank transfer
  - International documentary collection
    - Notion and economic function
    - Legal relations in international documentary collections
    - Issuing of collecting orders
    - Presentation and submission of documents
    - Bank's liability
  - International documentary letter of credit
    - Notion and economic function
    - Principles of international documentary letter of credit



- Legal relations with respect to international documentary letter of credit
  - Types of letter of credit
  - Bank's obligations and liabilities with respect to international documentary letter of credit
- 
- Instruments of payment security
    - Bank guarantee
      - Notion and economic function
      - Legal relations in bank guarantee business
      - Assumptions of the bank's liability
      - Types of bank guarantees
    - Other security instruments
      - UNIDROIT Convention on Security Rights in Mobile Equipment, 2001
      - Protocol on International Security Rights in Matters Specific to Aircraft Equipment



## IX INTERNATIONAL INTELLECTUAL PROPERTY LAW

Intellectual property law regulates relations in society with respect to intellectual property, which is the product of human endeavour in the fields of art, science, technology and business. Considering its intangible character, intellectual property represents the contents of the mind – information.

Historically speaking, intellectual property law was created at the time coinciding with the development of the market, transport and technological equipment, which enabled the materialization of intellectual property into a piece of merchandise or a service, thus becoming the factor of business activity.

Today, in the post-industrial or information age, information in the form of new knowledge and creativity has become, or is becoming the major source of newly created value in the economy. It is essential in determining the status and competitiveness of economic agents in the market. As a result, the significance of legal protection of intellectual property has become greater than ever before.

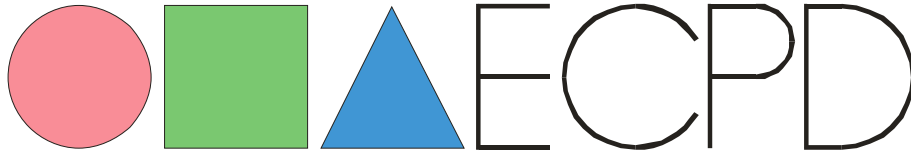
Today, intellectual property law is undergoing some kind of transformation that can be considered from at least three aspects. The first is concerned with new intellectual property and new intellectual property rights, which are the result of a dramatic technological development. The second is concerned with shifting the focus of the legal nature of intellectual property law from the traditional civil law discipline to the branch of business law. The third, international aspect concerns the incorporation of intellectual property law into the context of freedom of international trade, which is quite different from a legal, economic and political viewpoint than that in which intellectual property law was created and remained until recently.

Today, there are three institutional international generators of regulating intellectual property rights: the latest yet most efficient one is the WTO, the second is the World Intellectual Property Organization (WIPO) and the third is the European Union. Each organization has its own working method and dynamics, but their aims converge towards each other in the process of economic globalization. It is difficult to assess the consequences unambiguously, because they are different for developed and developing countries, for individual agents and for the national economy.

Practically speaking, being familiar with intellectual property rights is now a part of the basic legal literacy in international business relations.

The syllabus for the subject International Intellectual Property Law includes following questions:

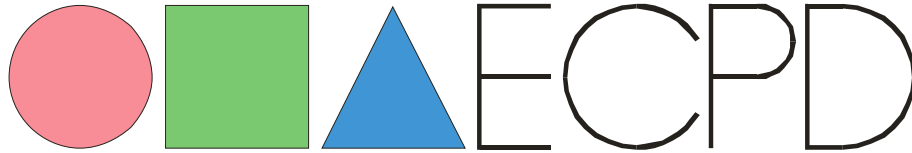
- Introductory considerations
- The notion of intellectual property law



- The role of the market and technological development in the creation and shaping of intellectual property law
- Economic significance of intellectual property law in the information (post-industrial) age
- Types of intellectual property rights
  - Industrial property (patent, brand, sample, model, appellation of origin...)
  - Copyrights and related rights (rights of performers, producers of phonograms and videograms, broadcasting organizations and data base producers)
  - The law to protect from unfair competition
  - Secret knowledge and experience (business secret)
- The principle of territoriality in intellectual property law and its consequences for the development, subject-matter and duration of specified intellectual property rights
- The principle of territoriality and the most important international conventions relating to intellectual property law
- Intellectual property law on the single EU market (the principle of territoriality as a restraint on free mobility of goods and capital, and provision of services)
  - Harmonization of national regulations of the EU member countries in the area of intellectual property (a survey of the appropriate directives)
  - The effect of intellectual property rights, recognized under national regulations, in the EU territory (the principle of so-called regional consummation of law) and a survey of the practice of the European Court of Justice in this respect
  - Supranational EU regulations relating to intellectual property rights (a survey of the appropriate rules) and the effect of individual intellectual property rights, recognized under those regulations
  - The possibilities of the subjects outside the EU to protect their intellectual property in the EU territory
- Transactions with intellectual property rights and transfer of secret knowledge and experience under a contract
- Types of transactions
  - Translative transaction (contract for the transfer of rights)
  - Constitutive transaction (licensing contract, that is, the contract granting authorization for use of the subject of protection)
  - Contract for the transfer of secret knowledge and experience
- The question of restrictive clauses in contracts relating to transactions with intellectual property rights from the viewpoint of antimonopoly and foreign trade regulations
- The question of determining the money value of intellectual property
  - Contract reimbursement for a transaction in intellectual property
  - The value of intellectual property as an investment in a joint venture

Intellectual property as a book value



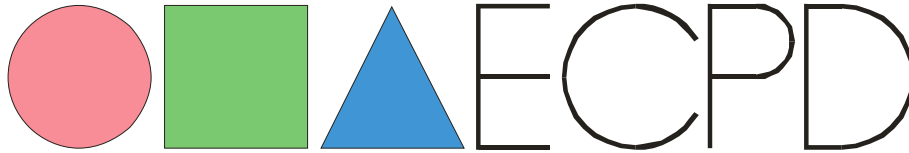


## **X LAW OF INTERNATIONAL INSURANCE AND ARBITRATION**

### **1. Law of Insurance in International Business Transactions**

Considering the great value of goods and services in international business transactions, it is necessary to take into account as follows:

- Significance of insurance in international transactions
  - Specifics of the risks to which goods and services in these transactions are exposed
  - Different agents of insurable interest (buyer, seller, forwarder, commission agent, warehouseman, inspector, etc.) and their interrelationships with respect to the key issue of the moment when the risks are transferred from one party to another (e.g. according to INCOTERMS in the event of sales; according to the FIDIC terms and conditions in the event of a contract agreement, etc.)
  - Special methods of equalizing risks on the domestic and international insurance (joint insurance, reinsurance) markets
  - Conclusion of an insurance contract as a precondition for the creation and effect of some other legal transactions in international trade (e.g. insurance policy is one of the documents for collection of a documentary letter of credit; insurance contract; credit repayment obligation as a condition for being granted a credit, etc.)
  - The degree of openness of the domestic insurance market as a precondition for foreign investments (e.g. the foreign investor wishes to be backed by his insurer in the country in which he is investing)
- The issues that should be dealt with under the law of insurance
  - Basic (general) rules for property insurance
    - Risk, subject, insured case, premium, over-insurance, under-insurance, multiple and double insurance, franchises, subrogation, transfer of the contract to the insured, insured goods and the like
  - Insurance of goods in international transactions
    - Cargo insurance, total insurance and liability of the carrier
    - Insurance in land, maritime and air transport
    - English insurance policy (Lloyd's Institute)
    - War-risk insurance
  - Insurance of capital works abroad
    - Obligation of insurance under the FIDIC conditions
    - Insurance of works under CAR (contractors all risks) policy or EAR (erection all risks) policy



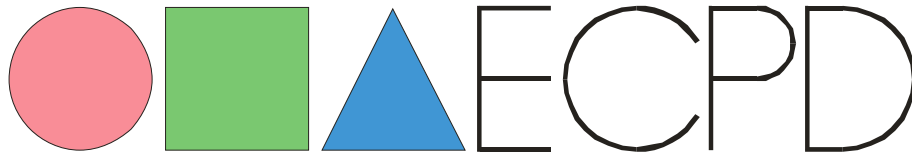
- Consequential loss insurance
- Contractor's professional liability insurance
- Credit insurance
  - Insurance against commercial and non-commercial risks
  - Government and para-state organizations for insurance against non-commercial risks (Hermes, COFACE, EXIM Bank, ICGD, etc.)
  - Agency for Foreign Investment Insurance (MIGA, etc.)
- Reinsurance
  - Legal relations in reinsurance
  - Types of insurance (quota reinsurance, surplus reinsurance, excess loss, stop-loss)
- Harmonization of the domestic law of insurance with the law of the European Union (three generations of directives)

## 2. International Commercial Arbitration

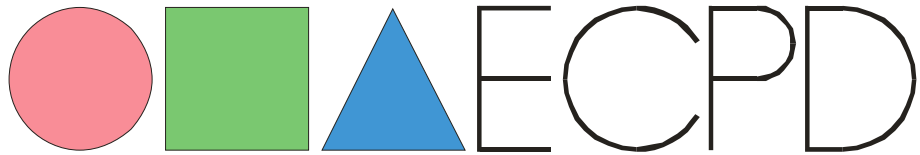
International commercial arbitration serves for the settlement of international commercial disputes and, over the past decades, has become more popular in the business world than reference to a commercial court. Arbitration is based on the arbitration agreement made by the parties wishing to settle a dispute by themselves, privately, without the intervention of a government body, in such a way that each appoints an arbitrator and the two arbitrators select a third one who will preside over the arbitration tribunal. In other words, the disputing parties will refer to three arbitrators with the proven professional and moral qualities to make an arbitration award. Over time, this basic idea has evolved into the modern institution of arbitration, which is regulated by numerous international conventions and other international rules, as well as national laws and own arbitration proceedings. The secrecy of arbitration proceedings and the obligation of the state court to execute the arbitration award, coupled with the fact that there is just one instance and that the proceedings are informal and economical, have made arbitration the inseparable companion of every international agreement, so that every businessman must be acquainted with it. We especially emphasize a need for the study of arbitration through numerous regulations and different practices of this institution, because in this way one will be acquainted with it professionally and in detail, depending on the specifics of each contract under international commercial law. In so doing, attention will be devoted to the study of the basic international sources of commercial arbitration – the Geneva Protocol on Arbitration Clauses of 1923, Geneva Convention on the Execution of Foreign Arbitration Awards of 1927, New York Convention on the Recognition and Execution of Foreign Arbitration Awards of 1958, European Convention on International Commercial Arbitration of 1961, UNCITRAL Arbitration Rules of 1976, UNCITRAL Model Law of 1985, as well as the arbitration rules and practices of the world's largest organizations providing arbitration services (in Paris, London, Zurich, Stockholm, the United States, Moscow, Beijing, etc.). In order to learn the basics of arbitration, it is also necessary to get acquainted with the subject-matter of the arbitration agreement of the disputing parties, status of arbitrators, characteristics of arbitration proceedings, as well as the specifics of the execution, recognition and cancellation of the arbitration award. Commercial arbitration shows in the best way how the unification of international commercial law is carried out and how the rules of common law, civil law and European community law overlap.

The issues of significance for international commercial arbitration:

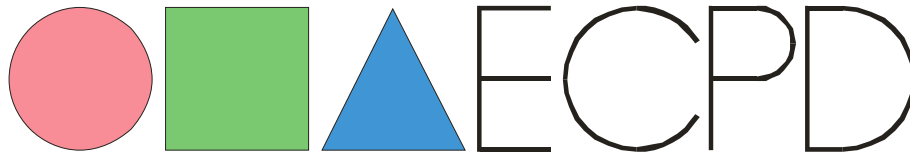
- Notion of international arbitration
  - Three conditions for international commercial arbitration
  - Advantages of international commercial arbitration



- Legal nature of international commercial arbitration and international arbitration law
- Types of international commercial arbitration
  - International and domestic arbitration
  - Institutions similar to arbitration
  - Mediation and measuring
  - Arbitrations between states
  - Ad hoc arbitrations
  - Institutional arbitrations (Paris, London, American, Zurich, Stockholm and Moscow arbitrations)
  - Specialized arbitrations
  - Arbitrations based on equity
- Sources of international arbitration law
  - International sources (bilateral agreements, multilateral conferences, UNCITRAL's documents)
  - Internal sources (national laws)
  - Other sources (arbitration rules, *lex mercatoria*, practice and doctrine of arbitration)
- Arbitration agreement
  - Arbitration clause
  - Arbitration compromise
  - Subject-matter and form of the arbitration agreement (conclusion, provision for arbitration, independence, termination)
- Appointment and status of an arbitrator
  - Types of arbitrators
  - Methods of appointment
  - Arbitrator's characteristics (capability, nationality, autonomy and impartiality)
  - Exclusion of the arbitrator
- Applicable law in international commercial arbitration
  - Applicable substantive law
  - Applicable law of procedure
  - Characteristics of arbitration proceedings
- Arbitration award
  - Subject-matter and form of the award
  - Types of award and its effects
  - Making of an award (consultations and voting of the arbitrators, dissenting opinion of an arbitrator)
- Abrogation, recognition and execution of the arbitration award



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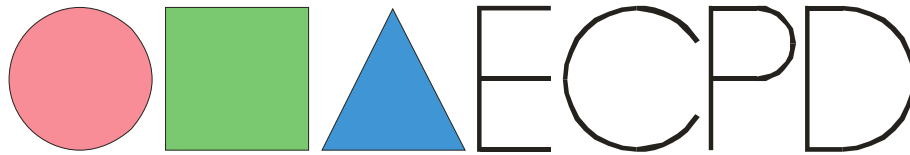


The high standard and international reputation of the ECPD – UNIDROIT International Postgraduate School of Law of the European Union and International Business Law have been achieved primarily thanks to the cooperation with UNIDROIT, as well as to the participation of renowned researchers, university professors and a number of specialist-associates.

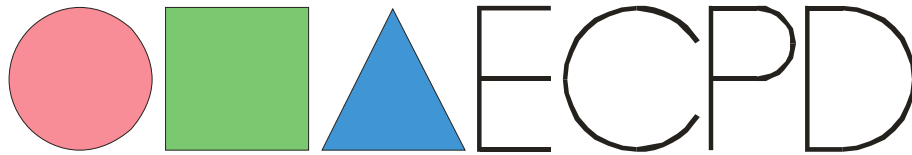
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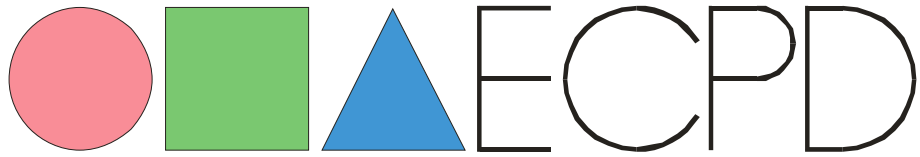
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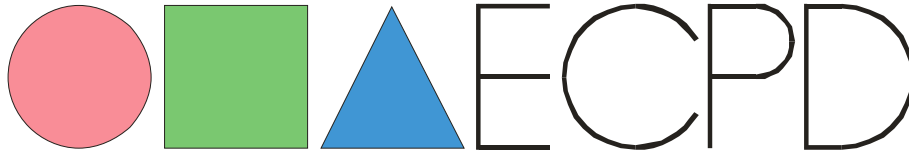


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***CURRICULUM VITAE  
of the Council members,  
teachers and collaborators***





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### **PROFESSIONAL ACTIVITY (1999-2004)**

Licensed as a lawyer since October 1999 and admitted at the Rome Bar Association since April 2000. Professional activity: extra judicial international commercial and civil area. Alternative dispute resolutions: arbitration and mediation in international commercial matters before the American Arbitration Association (New York and Miami). Negotiation of international commercial disputes in Sweden and Turkey. Legal advisor in international private law before the Bankruptcy Court in Rome. Legal counsellor before the Bankruptcy Court of Wilmington, Delaware.

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*The Academic Council on the United Nations System* (ACUNS).

*Società Italiana di Diritto Internazionale* (*The Italian Society of International Law*).

Member of the Board of Editors for the "Rivista della Cooperazione Giuridica Internazionale". Corresponding Editor to International Legal Materials (ILM) for the American Society of International Law (ASIL).

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**2003-present: Qualified Researcher (Lecturer) in International Law, Palermo University, Faculty of Law.**

2004-present: Assistant, Chair of Private International Law, Faculty of Political Sciences, "La Sapienza" University (Rome I).

2004-present: Professor of European Union Law, Palermo University (Trapani Chair), Faculty of Law.

2004-present: Professor of European Union Law, The Postgraduate School of Law in the University of Palermo (Faculty of Law, Trapani Chair).

2005-present: Professor of European Union Law, Messina University, Faculty of Political Sciences.

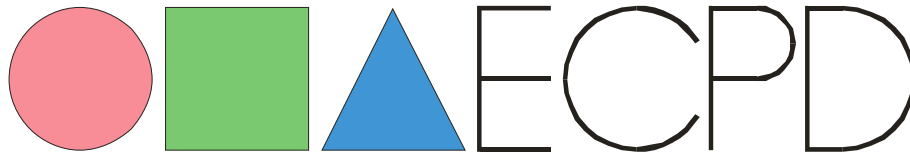
2006-present: Professor of European Union Law, Palermo University, Faculty of Pedagogy.

2006-present: Professor of International Law, Messina University, Faculty of Political Sciences.

2006-present: Professor of International Human Rights, “Kore” University of Enna, Faculty of Law

2006-present: Professor of International Law, UNISU University of Rome, Faculty of Law.

2006-present: Member of the Board of Professors for the Doctorate in Comparative Law, Faculty of Law, University of Palermo.



**COURSES:** Teach (or have taught) Public International Law, Private International Law, European Union Law, International Human Rights, International Commercial Law, World Trade Organization Law, ICSID Law, European Competition Law.

**PREVIOUS ACADEMIC APPOINTMENTS:**

1998-1999: Assistant, Chair of International Law, Faculty of Economy, “LUISS-Guido Carli” University, Rome.

1999-2001: Holder of a grant for studying and researching, Chair of International Law, Faculty of Economy, “LUISS-Guido Carli” University, Rome.

2001-2002, Adjunct Professor of Law, Chair of International Law, Faculty of Economy, “LUISS-Guido Carli” University, Rome.

2002-2004: Professor of International Human Rights, The Postgraduate School of Institutions and Politics for Protecting Human Rights in the University of Palermo (Faculty of Pedagogy).

2005-2006: Professor of Private International Law, Palermo University (Enna Chair), Faculty of Law.

2007-2008: Scientific Coordinator of European Module “Jean Monnet” (*European Integration Through Multilevel Governance*) at “Kore” University of Enna.

**INTERNATIONAL CONFERENCES AND LECTURES:**

June 1999: rapporteur, Round Table Conference “Cyprus: the supremacy of law, political realities and the need to adapt to change”, Eastern Mediterranean University, Faculty of Law, Turkish Republic of Northern Cyprus, Gazimagusa (presented paper: “The admission of Cyprus into the European Union”).

May 2000: rapporteur, International Symposium on Aegean Sea, Turkey, Bodrum, (presented paper: “Freedom of overflight in international airspace”).

July 2002: rapporteur, International Conference on “Implications of peace in the Eastern Mediterranean”, Ankara Bar Association, Turkey, Antalya (presented paper: “The island of Cyprus within the international legal system”).

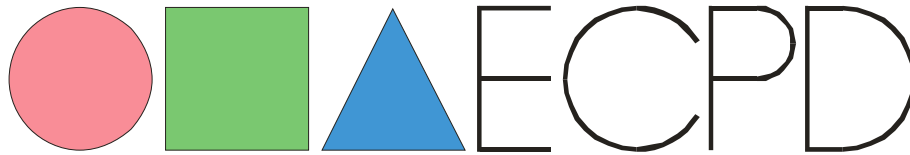
April 2004: rapporteur, International Symposium on “Security and Cooperation in the Eastern Mediterranean”, Eastern Mediterranean University, Faculty of Law, Turkish Republic of Northern Cyprus, Gazimagusa (presented paper: “The Construction of a Wall in the Occupied Palestinian Territory”).

September 2004: Lecture: “Instrumentos para fortalecer las relaciones entre la Comunidad Europea y Bolivia”, Facultad de Derecho, Universidad Autonoma *Gabriel René Moreno*, Santa Cruz de la Sierra, Bolivia.

February 2005: Lectures: “La nueva disciplina de la competencia en el derecho de la Unión europea” and “Comparación entre la Unión europea y la integración latinoamericana: semejanzas y divergencias”, Facultad de Derecho, Universidad Autonoma *Gabriel René Moreno*, Santa Cruz de la Sierra, Bolivia.

March 2005: rapporteur, Round Table Conference “Incidencias de la Constitución Europea en los Intereses Latinoamericanos”, Universidad Tecnica Privada de Santa Cruz - UTEPSA, Facultad de Ciencias Juridicas, Politicas y Sociales, Santa Cruz de la Sierra, Bolivia.

July 2005: Lecture: “La oposición de Francia y Holanda sobre la constitución Europea”, Facultad de Derecho, Universidad Autonoma *Gabriel René Moreno*, Santa Cruz de la Sierra, Bolivia.



March 2006: Lecture: “Iran, diritto internazionale ed energia atomica” (“Iran, International Law and Atomic Energy”), Master “Enrico Mattei in Medio Oriente” (“Enrico Mattei in the Middle East”), Faculty of Political Sciences, University of Teramo.

April 2006: Lecture: “La Corte penale internazionale” (“The International Criminal Court”), Doctorate in Comparative Law, Faculty of Law, University of Palermo.

December 2006: Lecture: “The Reform of the Security Council and the Challenges of the New Millennium. Juridical and Political Aspects”, Faculty of Political Sciences, University of Turin (with Centro Studi sul Federalismo), Italy.

February 2007: Lecture: “Il processo a Saddam Hussein ed il diritto internazionale processual-penalistico” (“Saddam Hussein’s Trial and International Criminal and Procedural Law”), Master “Enrico Mattei in Medio Oriente” (“Enrico Mattei in the Middle East”), Faculty of Political Sciences, University of Teramo.

February 2007: Lecture: “La giustizia penale internazionale” (“International Criminal Justice”), Master in Geopolitics, Faculty of Political Sciences, “La Sapienza” University (Rome I).

April 2007: rapporteur, Symposium “La Storia imbavagliata” (“History in Silence”), Faculty of Political Sciences, University of Teramo (presented paper: “Le norme antinegazioniste tra diritto interno e diritto internazionale” – “Rules Criminalizing Denials of Historical Events between Internal and International Law”).

October 2007: Rapporteur, Round Table Conference on “I crimini di esaltazione razziale: risposta culturale o risposta giudiziaria?” (“Crimes Of Racial Incitement: Cultural Or Judicial Answer?”), FestivalStoria 2007 – III Edition (“Di che razza sei? Un mito pericoloso” – “Which Race Do You Belong To? A Dangerous Myth”), Turin-Saluzzo-Savigliano.

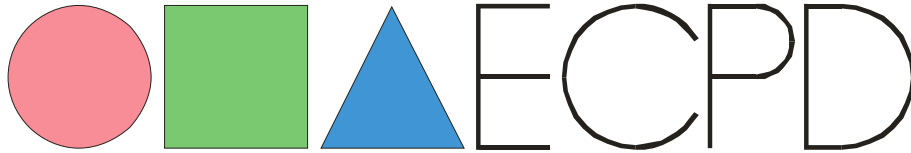
**Visiting Professor** at UTEPSA, *Universidad Tecnica Privada de Santa Cruz*, Santa Cruz de la Sierra, Bolivia.

March 2005: Teacher of *Derecho público del comercio internacional y derecho de los contratos internacionales para estados y empresas*, Diplomado “Derecho de la Integración Económica y del Comercio Internacional”, Facultad de Ciencias Sociales, Economicas y Juridicas, UTEPSA.

May 2005: Adjunct Teacher of *Derecho de la Integración Europea (Mercado Comùn; Libre circulación de las mercaderías, Libre circulación de las personas y de los servicios, Libre circulación del capital y de los pagos; Las reglas de la participación comunitaria para empresas y reglas para estados)*, Diplomado “Derecho de la Integración Económica y del Comercio Internacional”, Facultad de Ciencias Sociales, Economicas y Juridicas, UTEPSA.

September 2006: Teacher of *Derecho de la competencia en el comercio internacional*, Diplomado “Comercio Internacional”, Facultad de Ciencias Sociales, Economicas y Juridicas, UTEPSA.

November 2007: Teacher of *Principio de la Autonomía en las relaciones internas de los Estados Miembros de la Unión Europea: Regiones y descentralización. Desarrollo de los procesos normativos entre la Unión Europea, los Estados Miembros y las regiones*, Diplomado “Autonomía y descentralización en la Unión Europea”, Facultad de Ciencias Sociales, Economicas y Juridicas, UTEPSA.



## **BASEDOW Jürgen**

### ***Present position***

Director, Max-Planck Institute for Foreign Private and Private International Law, Hamburg.

### ***Education***

Born in 1949 in Hamburg, Germany. Studies in law and sociology at the universities of Hamburg, Geneva/Switzerland, and Pavia/Italy. 1977, Visiting Research Fellow at the Asser Institute for International Law at The Hague (Dr. Voskuil). 1977-1978, Research Assistant at the Institute of Comparative Law at Paris (Prof. René Rodière). 1979, Second State Examination in Law at Hamburg, Dr. iur. (Univ. of Hamburg). 1980-1981, Harvard Law School, Cambridge, Mass, LL.M. 1979-1986, Research Fellow, Max Planck Institute, Hamburg. 1986, Dr. iur. habil. (Univ. of Hamburg).

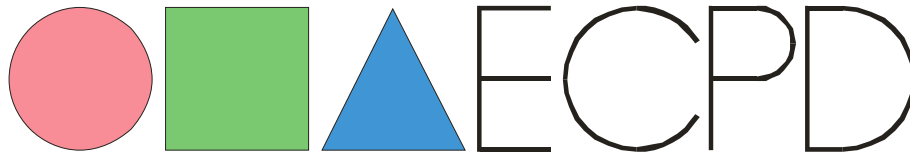
### ***Professional career***

Professor of law at universities since 1987: 1987-1995, Professor of Private Law, Comparative Law, Private International Law, International Litigation, and International Economic Law at the University of Augsburg; 1991, offers of appointment by the universities of Erlangen, Saarbrücken, Kiel; 1993-1994, Dean of the Faculty of Law of the University of Augsburg; 1994-1995, offers of appointment by the universities of Freiburg, Frankfurt and Hamburg; 1995-1997, Professor of Private Law, Private International Law, and International Economic Law at the Free University of Berlin. Since 1997 Director, Max Planck Institute for Foreign Private and Private International Law, Hamburg

Visiting Professor: Univ. of Ferrara (1989, 1991), Univ. of Genoa (1989, 1991), Univ. of Lyon III (1992, 1997), Univ. of Pittsburgh (1993), Univ. of Verona (1999), Univ. of Rotterdam (2000), Univ. of Paris II (2001), Univ. of Tunis II (2002), Univ. of Oxford (2003). 1997 Course on International Competition Law (in French) at the Hague Academy of International Law

### ***Other activities***

Membership in Governmental Advisory Committees: 1988-1991, Vice Chairman of the German Deregulation Committee (Federal Ministry of Economic Affairs); 1988-now German Council of Private International Law (Federal Ministry of Justice); 1992-1993 Committee on the Licensing of Mass Consignments (Federal Ministry of Post and Communications); 1992-1996 Committee on Transport Law (Federal Ministry of Justice); 1996-now referee of the Deutsche Forschungsgemeinschaft (German Research Council) for Comparative Law, Private International Law, and International Litigation; 1997-2000 Advisory Board of the Federal Ministry of Transport. 2000-now member of the German Monopoly Commission; 2000-2003;



Chairman of the Section of Humanities, Max-Planck Society for the Advancement of Science; 2000-now, Committee on Insurance Law (Federal Ministry of Justice)

#### **Membership in academies**

1998-now, Associated member of the International Academy of Comparative Law; 1998-now, Associated member of the International Academy of Commercial and Consumer Law; 1998-2000, Member of the German-American Academic Council; 2000-now, Member of the Academia Europe.

#### **Honours**

1979, Otto Hahn Medal, Max Planck Society; 1987, Kurt Hartwig Siemers Award, Hamburg Scientific Foundation; 1989, Award of the Stinnes Foundation; 2002, Honorary doctorate (Dr. h.c.) awarded by the University of Stockholm.

- *Books edited*

- 28) *Wirtschaftsrecht des Mercosur - Horizont 2000 (jointly with Jürgen Samtleben)*, Nomos Verlagsgesellschaft, Baden-Baden, 2001;
- 29) *Limits and Control of Competition with a View to International Harmonisation*, Kluwer Law International, Den Haag, 2002;
- 30) *Economic Regulation and Competition - Regulation of Services in the EU, Germany and Japan* (with Harald Baum, Klaus J. Hopt, Hideki Kanda, Toshiyuki Kono), European Business Law and Practice Series 18, Kluwer Law International, Den Haag 2002;

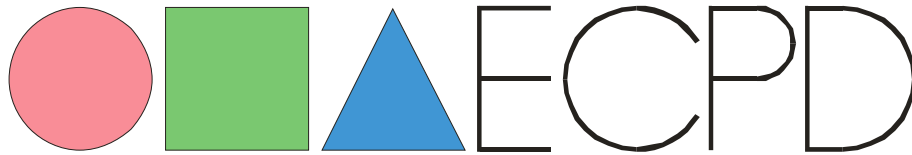
- *Books published*

- 12) *Die Haftung der Paketdienste Der Verlust von Sendungen als Problem der Betriebsorganisation und die Grenzen des groben Organisationsverschuldens* (jointly with Christian Jung). R. v. Decker's rechts- und sozialwissenschaftliche Abhandlungen Bd. 71, Abteilung Verkehrsrecht und Verkehrspolitik Bd. 11 Heidelberg: R. v. Decker's Verlag 1997. ca. X, p. 110
- 13) *Weltkartellrecht. Ausgangslage und Ziele, Methoden und Grenzen der internationalen Vereinheitlichung des Rechts der Wettbewerbsbeschränkungen*, Beiträge zum ausländischen und internationalen Privatrecht Bd. 63. Mohr-Siebeck, Tübingen, 1998, XVII, p. 198
- 14) *Liberalisierung im Luftverkehr Deutschlands – Analyse und wettbewerbspolitische Empfehlungen* (jointly with H. Ehmer, P. Berster, C. Jung). Deutsches Zentrum für Luft- und Raumfahrt. V., Köln 2000, p. 433
- 15) *Mehr Freiheit wagen - Über Deregulierung und Wettbewerb*, Mohr Siebeck, Tübingen, 2002, ix + p. 473

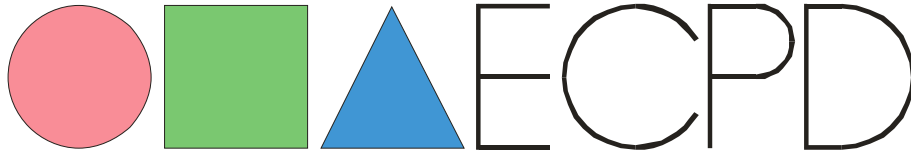
#### **Publications**

- *Articles*

- 99) *Why Insurance Contract Law in Europe Should be Harmonised*, Nordisk Försäkringstidskrift, 2002, pp. 31-34;



- 100) *Die rechtsstaatliche Dimension der europäischen Justizreform*, RabelsZ 66 (2002), pp. 203-215;
- 101) *La renationalisation du droit communautaire de la concurrence*, Revue des affaires européennes 11/12 (2001/2002), pp. 92-102;
- *Contributions to edited volumes and joint publications*
- 75) *Monopolkommission, Zusammenschlussvorhaben der E.ON AG mit der Gelsenberg AG und der E.ON AG mit der Bergemann GmbH*, Sondergutachten 35, Nomos, Baden-Baden 2002, 42;
- 76) *General Report*, in: Basedow, Jürgen (ed.), *Limits and Control of Competition with a View to International Harmonisation* (mit Stefan Pankoke). Kluwer Law International, Den Haag 2002, pp. 3-62.



## **BERAUDO Jean-Paul**

### ***Present position***

Counsellor to the Cassation Court

### ***Qualifications***

PhD in Law (thesis on the French – Spanish International law relationship).

### ***Professional carrier***

Born in 1946, Saint Raphael (France). 1974-1976, juge d'instruction (Examining judge); 1976-1991, Executive and Head of the International Office of the Civil Division of the Ministry of Justice; 1991-2000, Presiding judge of the Commercial Division of the Court of Appeal (Grenoble); 2000 – Counsellor to the Cassation.

### ***Other activities***

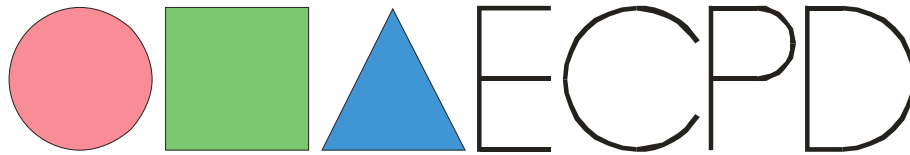
Professor of International Trade Law at Paris I University (Panthéon-Sorbonne); French delegate to UNCITRAL: Chairman of Committee I of the diplomatic conference on Terminal Operations Liability and Chairman of several working groups and drafting committees; French delegate to the Hague Conference, negotiations on: the Law applicable and recognition of trusts, the Law applicable to International sale of goods; French delegate to UNIDROIT, negotiations on: international leasing, international factoring, hotel-keeping contract, road carriage of dangerous goods; French correspondent of UNIDROIT; Member of the Scientific board of Uniform Law Review (UNIDROIT).

### ***Main publications***

*Commentary of the Brussels, Lugano conventions and EEC 44/2001 Rule on jurisdiction and recognition of judgments*, Editions du Juris-classeur;

*Commentary of the main conventions related to International Trade Law*, Editions Masson;

*Les trusts anglo-saxons et le droit francais*, Editions LGDJ.



## BUSSANI MAURO

Full Professor of Private and Comparative Law, University of Trieste Law School.

### **Teaching Fields (2006-2007)**

**Comparative Law, Comparative Legal Systems, European Private Law, Comparative Law of Secured Transactions, Comparative Tort Law, Comparative Contract Law, Commercial Contracts, Law of Obligations.**

### **Visiting Professorships**

1995: Visiting Professor of Comparative Law, Faculdade de Direito, Curso de Pós-Graduação - Mestrado em Direito, Universidade Federal do Rio Grande do Sul, Porto Alegre, Brazil.

1995: Visiting Professor of Comparative Law, Facultad de Derecho y Ciencia Política, Univ. Nacional Mayor de San Marcos - Universidad del Perú - Decana de América, Lima, Peru.

1997: Visiting Professor of Comparative Law, Faculté de Droit de Montpellier, Université de Montpellier I, France.

1998: Visiting Professor of Comparative Law, Institut de Droit Comparé de l'Université Panthéon Assas, Paris-II, France.

1999: Visiting Professor of Comparative Law, Université Panthéon Sorbonne, Paris-I, France.

1999 and 2000: Visiting Professor of Comparative Law, Tulane Law School – Summer Session – Paris Institute of European Legal Studies.

2000: Visiting Professor of Comparative Law, Université Panthéon Assas, Paris-II, France.

2000: Visiting Professor of Comparative Law, 'Duke-Geneva Institute in Transnational Law' (Duke University School of Law & Faculté de Droit de Genève), Geneva, Switzerland.

2001: Visiting Professor of Comparative Law, Cardozo Law School, Yeshiva University, N.Y., N.Y.

2003: Visiting Professor of Comparative Law at the University College of London-Institute of Global Law, London, U.K.

2003: Visiting Professor of Comparative Law at the Tulane Law School, New Orleans, La., U.S.A.

2005: Visiting Professor of Comparative Law at the Universidade Católica Portuguesa, Lisboa, Portugal.

2006 -: "Regular Visiting Professor" at the University of Macau, S.A.R. of the People's Republic of China

2007: Visiting Professor of Comparative Law at the Universidade Católica Portuguesa, Lisboa, Portugal.

### **Principal Memberships of Learned Societies, Honours and Awards**

Law degree awarded by University of Trieste *summa cum laude*.

National Research Council Fellowship in 1989-1996-1997: Paris, France.

National Research Council Fellowship in 1992: London, U.K.

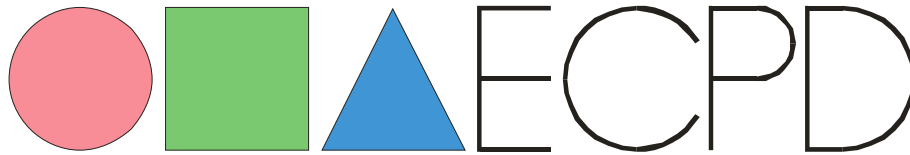
Member of the Editorial Board (Trento) of *Rivista critica di diritto privato* (Jovene - Napoli, Italy), directed by S. Rodotà.

Member of the *Italian Association of Comparative Law*.

Member of *Association 'Henri Capitant' des Amis de la Culture Juridique Française*, Paris, France (and Member of the Board of Directors of the Italian branch).

Member of the *Société de Législation Comparée*, Paris, France.





Member of the Scientific Committee of *Limes* - Journal of Geopolitics (L'Espresso - Roma, Italy), directed by L. Caracciolo.

Member of the Scientific Committee of *Ars Interpretandi: Journal of Legal Hermeneutics/Annuario di Ermeneutica Giuridica* and *Jahrbuch für juristische Hermeneutik* (CEDAM - Padova, Italy and Lit Verlag - Münster, Germany), directed by M. Kriele, F. Viola, F. Volpi and G. Zaccaria.

Member of the Board of Editors of *Newsletter of European Law*.

Contributing Editor of *Tulane Law Review*.

Titular Member of the *International Academy of Comparative Law*

Co-Director (with Ugo Mattei) of the Series *The Common Core of European Private Law*, published by Cambridge University Press, Cambridge (U.K.)

Associate Editor of *Global Jurist* (<http://www.bepress.com/gj>).

Member of the Scientific Committee of the *Revista Critica de Derecho Privado*, Lima, Peru.

Member (2000-2003) of the Board of Directors of the University of Trieste

Vice-President and Member of the Council of Administration of the *United World College of the Adriatic*, Duino, Trieste

Member of the Board of Directors of the *Italian-American Association*, Trieste

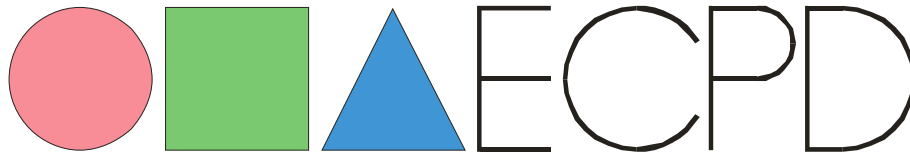
Member of the Board of Directors of the *Consorzio per lo Sviluppo Internazionale dell'Università di Trieste*

Member of the Board of Directors of *S.I.S.S.A. Medialab S.r.l.*, Trieste

### **Principal Publications**

#### **Books**

- 1) *I contratti nuovi. Leasing, Factoring, Franchising*, Giuffrè: Milano, 1989 - with P. Cendon.
- 2) *La colpa soggettiva. Modelli di valutazione della condotta nella responsabilità extracontrattuale*, Cedam: Padova, 1991.
- 3) *Proprietà-garanzia e contratto. Formule e regole nel leasing finanziario*, Quaderni del Dipartimento di Scienze Giuridiche: Trento, 1992, reprint 1995.
- 4) (Editor) *Diritto, Giustizia e Interpretazione*, in *Annuario Filosofico Europeo*, n. 2, series edited by G. Vattimo and J. Derrida, Laterza: Bari-Roma, 1998.
- 5) *As peculiaridades da noção de culpa: um estudo de direito comparado*, Livraria do Advogado: Porto Alegre (Brazil), 2000.
- 6) *Il problema del patto commissorio. Studio di diritto comparato*, Giappichelli: Torino, 2000.
- 7) (Editor, with U. Mattei) *Making European Law. Essays on the 'Common Core' Project*, Quaderni del Dipartimento di Scienze Giuridiche: Trento, 2000.
- 8) (Editor, with U. Mattei) *The Common Core of European Private Law. Essays on the Project*, Kluwer: The Hague, 2002; reprint: 2003
- 9) (Editor, with F. Fiorentini) *I contratti di finanziamento e le garanzie del credito nella prospettiva europea - Financial Contracts and Secured Transactions in the European Perspective*, E.U.T.: Trieste, 2003
- 10) (Editor, with V.V. Palmer) *Pure Economic Loss in Europe*, Cambridge University Press: Cambridge (U.K.), 2003  
Chinese version by Law Press China: Beijing, 2005



## **CIZELJ Boris**

### ***Present position***

President of the ECPD Executive Board

Director of the Slovenian Business and Research Association (SBRA), Brussels

### ***Education***

Born in 1942, Slovenia. 1961-66, University of Ljubljana, Department of Economics (undergraduate diploma) and Department of Political Science (graduate diploma in International Economic Relations); 1968-1970, Institute of Social Studies, Den Haag, Netherlands, Master of Social Science Degree (thesis on the Concept of political elite); 1980, University of Belgrade (PhD thesis on regional economic cooperation and integration with particular reference to developing countries).

### ***Professional career***

1966-1973, Assistant at the University of Ljubljana - Department of Social Sciences, lecturing on International Economic Relations; 1973-1987, Deputy Director and since 1980 Director of the Centre for International Cooperation and Development (CICD) of which he was the founder. Originally CICD was a small research unit of Dept. of Social Sciences at Ljubljana University with 2 researchers, and grew into a major research institute (38 full-time researchers ) in Applied Economics; 1987-1991, Yugoslav Ambassador to Australia; 1991-1992, Government Adviser at Slovenian Ministry of Foreign Affairs, in 1992 Head of Department for European Union; 1992-1998, Slovenian Ambassador to European Union, NATO and Western European Union (WEU); 1998-1999, Deputy Head of Slovenian Core Negotiating Team with EU; Since May 1999, Director of the Slovenian Business and Research Association (SBRA) in Brussels.

### ***Other activities***

Organized and/or directed numerous research projects in Applied Economics at the CICD, often in collaboration with institutes from other countries and international agencies.

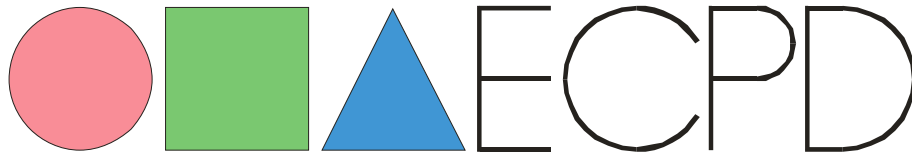
Conducted many economic surveys and country-risk assessment studies for corporations and major banks in Slovenia and former Yugoslavia.

Published 3 books, about 50 research papers, articles and studies on international economic relations, European economic integration, economic cooperation among developing countries and related subjects.

Marketed CICD's services successfully and developed a rather unique system of co-founding and membership for companies interested in CICD's products and services.

Organised several major business conferences with participation between 30 and 300 business and government leaders, such as for example: the first European Community-Yugoslavia Economic Forum, Bled 1985; the first Chinese-Yugoslav Business Conference, Ljubljana 1986; several business conferences in Australia and Belgium (1988-1993).

Organised about 10 major international conferences, and many national gatherings for professionals, businessmen and civil servants (1984-2001).



Broad experience in all aspects of editorial, production, distribution and marketing of publications (editor of series with Westview Press, Boulder; Colorado, USA; launched the CICD quarterly in English “Development and International Cooperation”).

Launched in 1994 and served till 1998 as Chief Editor of English language periodical “Slovenia Insight” published by the Mission of Slovenia to EU and NATO in Brussels (1,000 copies).

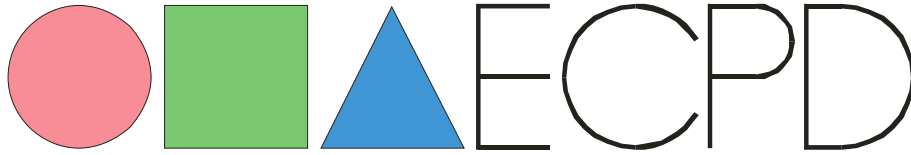
Launched in 1999 and served as editor of a Quarterly Bulletin of SBRA “Most” in English (circulation 4,000 copies).

Founder of the “International Association of Slovenian Development Partners” (IASDP) incorporated in Sydney, Australia (1991) - a network of businessmen of Slovenian origin from several countries (USA, Canada, Argentina, Australia); Director of IASDP Ljubljana Office (1991-92) and later Vice President of IASDP.

Co-founder of “Australian-Yugoslav Business Council” (est. 1988) and helped create 4 state Chapters (NSW, Victoria, Queensland, ACT).

Initiator and honorary founding member of the Belgian-Slovenian Business Council (incorporated in Brussels in 1993).

Initiator and current President of NIROC – Network of Interest Representation Offices from Candidate Countries in Brussels.



## **CLIFT Jenny**

### ***Present position***

Senior Legal Officer with the International Trade Law Division, United Nations Office of Legal Affairs (Vienna), which functions as the secretariat of the United Nations Commission on International Trade Law (UNCITRAL).

### ***Education***

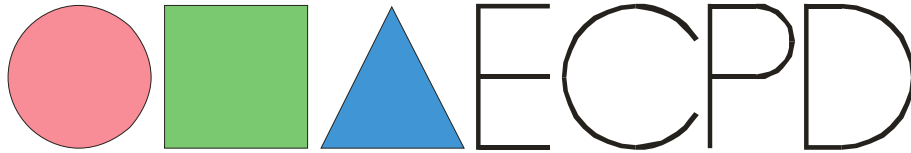
Law degrees from Macquarie University, Sydney (BA, LLB (Hons)) and the University of Technology, Sydney (LLM).

### ***Professional career***

Ms Clift spent three years in China, as a language student and as senior research officer (Trade) with the Australian Embassy, Beijing. She also practised in commercial law as a solicitor. Before joining the United Nations, Ms Clift was a senior government lawyer with the Australian Attorney-General's Department, specialising in international trade law, and between 1994 and 1998, legal aspects of electronic commerce. She chaired the Australian Attorney-General's Electronic Commerce Legal Expert Group, served as a member of the Australian Government's National Public Key Infrastructure Working Group and other inter-departmental committees on legal aspects of electronic commerce, including procurement, and was Australian delegate to the UNCITRAL Working Group on Electronic Commerce. She joined the UNCITRAL secretariat in 1998 and has worked on the electronic commerce, international commercial arbitration, insolvency and secured transaction projects. Between 1999 and 2004, Ms Clift was responsible, as secretary of Working Group V (Insolvency Law), for preparation of the UNCITRAL Legislative Guide on Insolvency Law, which was finalised and adopted by the Commission in June, 2004. She currently heads the Division's Coordination and Technical Assistance Unit, which provides substantive secretarial services to UNCITRAL for the implementation of its coordination function, technical assistance programme and the conduct of its external affairs.

### ***Publications***

In the course of working with the United Nations, Ms. Clift has published articles on international trade law, particularly the UNCITRAL texts on electronic commerce and insolvency law, and participated as a speaker at various international conferences on those topics. Her publications also include articles on export of legal services and foreign legal practice issues; Australian legal co-operation with the PRC; and the harmonization of international trade law.



## DANIELE Luigi

### ***Present Position***

Professor of European Community Law, University of Rome; Professor of European Union Law at the Second University of Rome (Tor Vergata); Advocate, member of the Trieste Bar Council, with right of pleading before the Supreme Courts; Adviser, Ministry of Foreign Affairs, Diplomatic Litigation and Treaties Service, Rome.

### ***Education***

Born in 1955, Naples, Italy. Classical studies at Liceo-Ginnasio Umberto I, Naples. Dottore in Giurisprudenza (*cum laude*) at the University of Naples (1977). 1977-1979 studying International Law and European Law at the University of Naples with professor Francesco Capotorti. 1980, Introductory Course in English Law for foreign lawyers, University of Cambridge.

### ***Professional career***

1979, Administrator and Principal Administrator, Research and Documentation Division, Court of Justice of the European Communities, Luxembourg; 1984, Legal Secretary (*référéndaire*) to judge Giacinto Bosco, EC Court of Justice, Luxembourg; 1987, Associate Professor of EC Law and International Law, University of Trieste; 1999, Dean, Faculty of Law, University of Trieste; 2003, Full Professor of EU Law at the Second University of Rome.

Prof. Daniele has been counsellor to the Agent of the Italian Government in the case Legality of Use of Force (*Yugoslavia v. Italy*) before the International Court of Justice, the Hague (1999) and in various cases before the EC Court of Justice, Luxembourg.

### ***Publications***

- *Books published*

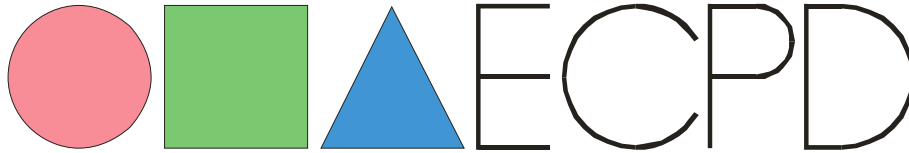
*International Bankruptcy*, 1987;

*Interim Measures of Protection before the International Court of Justice*, 1993;

*Handbook on the Substantive Law of the European Union*, 3 ed. 1991, 1995 and 2000;

#### *Articles*

Almost 60 essays, of which several were published in leading legal reviews like *European Law Review*, *Revue du Marché commun*, *Revue générale de droit international public*, *Rivista di diritto internazionale*.



## **DIETZ Adolf**

### ***Present position***

Senior Research Fellow, Max-Planck Institute for Intellectual Property, Competition and Tax Law, Munich

### ***Education***

Born in Munich 1936, Germany. 1958-63, law studies at Munich and Paris universities. Dr. iur. 1966 at University of Munich. Dr. h.c. 1996 at KU Brussels.

### ***Professional career***

1966–1972, Scientific Collaborator at the Max-Planck Institute (then Max-Planck Institute for Foreign and International Patent, Copyright, and Competition Law, Munich); from 1972 Head of Department; 1978-2001, Head of Division and Senior Research Fellow at the MPI; From 1993 Lecturer and from 1998 Honorary Professor (German type of “Honorarprofessor”) at University of Passau, Germany; 1995-2001, Visiting Professor at Renmin University Beijing, China; Retired since 2001.

Specialist in German, European and international copyright law as well as of intellectual property law of the countries in Central and Eastern Europe, and China.

### ***Most important publications***

*Das Droit moral des Urhebers im neuen französischen und deutschen Urheberrecht*, 1968;

*Das ungarische Patentrecht*, 1976 (together with A.Vida);

*Copyright Law in the European Community*, 1978 (original publication in German under the title “Das Urheberrecht in der Europäischen Gemeinschaft”, 1977);

*Urheberrecht und Entwicklungsländer*, 1981;

*Das primäre Urhebervertragsrecht in der Bundesrepublik Deutschland und in den anderen Mitgliedstaaten der Europäischen Gemeinschaft*, 1984;

Coauthor and commentator of provisions on moral rights, in: Schricker (ed.), *Urheberrecht. Kommentar*, 1987; 2<sup>nd</sup> ed. 1999 (3<sup>rd</sup> edition in preparation);

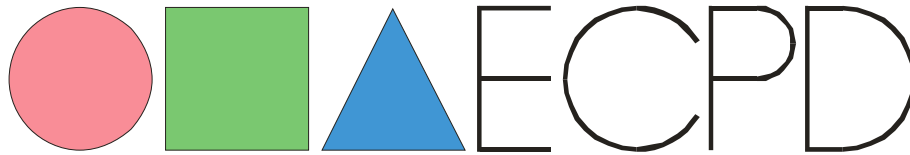
*Die Neuregelung des gewerblichen Rechtsschutzes in China*, 1988;

*Das Urheberrecht in Spanien und Portugal*, 1990 (Spanish translation under the title of „El derecho de autor en Espana y Portugal“, 1992);

*Protection of Intellectual Property in Central and Eastern Europe*, 1995;

*La mise en oeuvre des droits d’auteur/Enforcement of Copyright*. Berlin Congress of ALAI (1999), 2000 (as editor);

Numerous articles in German, foreign and international scientific reviews, contributions to Festschriften and other collections; Translator of numerous legal acts and court decisions, especially from countries of Central and Eastern Europe, as well as China.



## Sir GOODE Roy

### ***Present position***

Emeritus Professor of Law in the University of Oxford and Emeritus Fellow of St. John's College, Oxford.

### ***Education***

Highgate School, London 1946-1949 (Gladstone Scholar) degrees LLB (London) 1954, LLD (London), 1976.

### ***Professional career***

Born in 1933. Qualified as a solicitor in November 1954, admitted to practice, February 1955; Solicitor of the Supreme Court (Honours), 1955-1988. Full-time practice as a solicitor for 17 years specialising in civil litigation and commercial work. Partner in Victor Mishcon & Co, Holborn solicitors, 1963-1971; and consultant 1971 to 1988; Transferred to the Bar February 1988; Barrister (Inner Temple) 1988 – ; Appointed Queen's Counsel, 1990; Tenant of Blackstone Chambers (formerly 2 Hare Court). Hon. Bencher of Inner Temple, 1992; Total period in practice: 45 years, of which 16 years full-time, apart from 2 years' military service.

Appointed Professor of Law in the University of London (Queen Mary College) 1971; Acting Dean of the Faculty of Laws, 1971 – 1972; Appointed Crowther Professor of Credit and Commercial Law, 1973; Dean of the Faculty of Law and Head of the Department of Law at Queen Mary College, 1976-1980; Founder of the Centre for Commercial Law Studies, Queen Mary College, Director of the Centre, 1979-1989; and Honorary President 1989 – ; Elected Norton Rose Professor of English Law in the University of Oxford and Fellow of St. John's College, Oxford, 1990 – 1998; Chairman of University Disciplinary Court 1993 – ; Member of General Board, 1994 – 1995 and 1995 – 1996; and Chairman of Graduate Studies Committee, 1995 – 1996; Hon. Director of the Oxford University Law Foundation 1998 – .

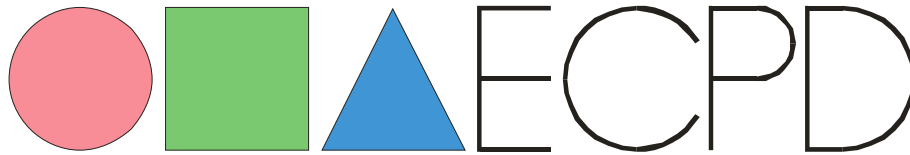
### ***Government, statutory and other committees***

Member of the Crowther Committee on Consumer Credit, 1968-1971; Chairman of the Advertising Advisory Committee of the Independent Broadcasting Authority, 1976-1980; Former member of the Lord Chancellor's Advisory Committee on Legal Education.

Former Chairman of the Camden Citizens' Advice Bureau Committee of Management and founding member of Camden Community Law Centre Committee of Management; Former lay member of the London Hospital Ethics Committee; Member of the Legal Panel of the Insolvency Law Review Committee 1977-1981; Member of the Monopolies and Mergers Commission, 1981-1986; Member of the Department of Trade and Industry Advisory Committee on Arbitration 1985 – .

Member of the Civil and Family Committee of the Judicial Studies Board, 1988-1992; Member of the Council of the Banking Ombudsman, 1989-1992; Member of the JUSTICE Committee on Bankruptcy (Report, *Bankruptcy*, published 1975); Chairman of panel of appointed persons to





hear licensing appeals under the Consumer Credit Act 1974; Chairman of the Pension Law Review Committee, 1992-1993.

Member of the UK delegation (DTI) to (1) the Diplomatic Conference at Ottawa 1988 to consider the Conventions on International Financial Leasing and International Factoring; (2) the Joint Sessions of the UNIDROIT Committee of Governmental Experts and the ICAO Legal Sub-Committee in Rome and Ottawa 1998 and 1999 to consider the draft UNIDROIT Convention on International Mobile Equipment; Member of the UK delegation (Treasury) to the forthcoming Hague Conference on Private International Law to consider an international convention on the law applicable to the taking of securities as collateral.

#### ***Visiting posts***

Visiting Professor at Melbourne University, 1976; Australian Commonwealth Visiting Fellow, 1976; Visiting Professor at Monash University, 1984; Falconbridge Visiting Professor at Osgoode Hall Law School, York University, 1987; Commonwealth Banking Corporation Visiting Professor at Monash University, 1988; Thyssen Visiting Professor, University of Hamburg, May 1999; Bruce W. Nichols Visiting Professor of Law, Harvard University, September - December 1999.

#### ***UNIDROIT activities***

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT), 1988 - (nominated by Foreign and Commonwealth Office). Previously correspondent collaborator of UNIDROIT over many years; Member of UNIDROIT Study Groups on International Leasing and International Factoring, 1977-1984; and Chairman of Drafting Committees; UK governmental expert at meetings of government experts at UNIDROIT to consider draft Conventions on International Financial Leasing and International Factoring (Chairman of meetings on Factoring Convention, Deputy Chairman of meetings on Leasing Convention and Chairman of both Drafting Committees); Chairman of Working Group of Technical Experts at meeting in Rome 1988 and UNIDROIT Observer at CMI Conference in Brussels, 1988; Leader of UK delegation and Chairman of Drafting Committee at Diplomatic Conference in Ottawa 1988 to conclude the above Conventions; Chairman of Study Group on International Interests in Mobile Equipment and of Sub-Committee and Drafting Committee; Chairman of Steering and Revisions Committee. Rapporteur of Joint Sessions Session of Governmental Experts and ICAO Legal Sub-Committee, Rome, February 1999, Montreal August, 1999; and Rome, March 2000.

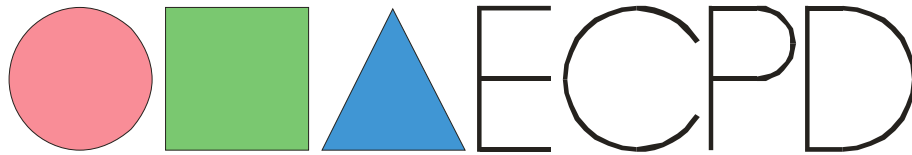
#### ***International activities***

Chairman, Commission on International Commercial Practice Chamber, 1993-1997; Chairman, Drafting Group to finalise text of Uniform Commerce Rules for Demand Guarantees; Chairman, Committee on International Commercial Practice of ICC United Kingdom, 1994-1998; Member of the Commission on European Contract Law, and of its European Contract Drafting Committee, which produced *Principles of European Contract Law* (work continuing).

#### ***World Bank activities***

Chairman, Working Group on Debtor-Creditor Regimes at a meeting in Washington in connection with the World Bank Insolvency Initiative, 1999.





### ***Learned societies***

Fellow of the British Academy; Fellow of the Royal Society of Arts and other bodies; Member of the Academy of European Private Lawyers; Foreign Member of the American Law Institute; Former Chairman of the Executive Committee and Member of Council of Justice (British Section of the International Commission of Jurists). President of the Society of Public Teachers of Law 1991-1992; Member of Council, British Institute of International and Comparative Law; A former Curator of the Institute of Advanced Study, University of London. Former Honorary President, Oxford Institute of Legal Practice; Chairman, Commission on International Commercial Practice of the International Chamber of Commerce 1994-1997; Former member of Council, Statute Law Society; Founder member of the International Academy of Commercial and Consumer Law and President, 1992-1994; Member of United Kingdom National Committee of Comparative Law; Associate Member of the European Association of Insolvency Practitioners; Member of the International Law Association, the Board of the London Court of International Arbitration and a Working Group of the Financial Law Panel; Former Member of Council of the British-Polish Legal Association; Former Joint Honorary President of the British Czech and Slovak Legal Association; Freeman of the City of London.

### ***Honours***

OBE 1972; CBE 1994; Kt 2000; QC 1990; FBA 1989; FRSA 1990; Hon. DSc (Econ) (Lond.) 1996, Hon. Fellow, Queen Mary and Westfield College, University of London.

### ***Publications***

- *Books written*

*Hire-Purchase Law and Practice*, Butterworths, 1st ed., 1962, 2nd ed., 1970, supplement 1975

*Hire-Purchase and Conditional Sale: A Comparative Survey of Commonwealth and American Law* (jointly with Professor Jacob S. Ziegel), British Institute of International and Comparative Law, 1965;

*Introduction to the Consumer Credit Act 1974*, Butterworths, 1974;

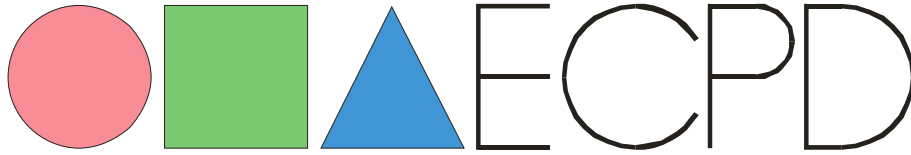
*The Consumer Credit Act: A Students' Guide*, Butterworths, 1979;

*Consumer Credit Legislation* (original author, and now General Editor with assistant editors), Butterworths, looseleaf;

*Commercial Law*, Penguin Books and Allen Lane, 1982, reprinted with minor revisions 1985, reprinted Pelican Books 1986, many subsequent reprints; 2nd edition 1995, reprinted with minor revisions 1996; hardback edition published by Butterworths, 1998;

*Legal Problems of Credit and Security*, Sweet & Maxwell and Centre for Commercial Law Studies, 1st ed. 1982, 2nd ed., 1988;

*Payment Obligations in Commercial and Financial Transactions*, Sweet & Maxwell and Centre for Commercial Law Studies, 1983;



*Proprietary Rights and Insolvency in Sales Transactions*, Sweet & Maxwell and Centre for Commercial Law Studies, 1st ed., 1985, 2nd ed., 1989;

*Consumer Credit Law* (reproducing in revised and expanded form Division I of *Consumer Credit Legislation*), Butterworths, 1989;

*Principles of Corporate Insolvency Law*, Sweet & Maxwell and Centre for Commercial Law Studies, 1st ed., 1990, 2nd ed., 1997;

*Guide to the ICC Uniform Rules for Demand Guarantees*, ICC Publications, 1992;

*Commercial Law in the Next Millennium*, the 1997 Hamlyn Lectures, 1998;

- *Contributions to encyclopaedic works*

*Halsbury's Laws of England* (4th edn.), vol. 4, title Bills of Sale, and Reissue in volume 4(1) 1992;

*Encyclopaedia of Forms and Precedents* (4th edn.), vol. 4, title Bills of Sale; vol. 10, title Hiring and Hire-Purchase;

*The Dictionary of National Biography 1986-1990*, Clive Schmitthoff;

*Palgrave's Dictionary of Economics and the Law*, title Instalment Credit Agreements;

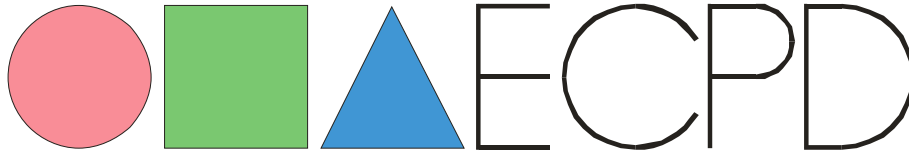
- *Books edited*

*Consumer Credit Legislation* (loose-leaf - see (1) above) - relaunched as *Goode's Consumer Credit Law and Practice* (see below);

*Commercial Operations in Europe* (with K.R. Simmonds), Sijthoff, 1978;

*Consumer Credit*, Sijthoff, 1978, for United Kingdom National Committee of Comparative Law and Faculty of Laws, Queen Mary College;

*Electronic Banking: the Legal Implications* (ed.), Institute of Bankers and Centre for Commercial Law Studies, 1985;



## **HONNEBIER B. Patrick**

Associate Professor of Law  
University of Utrecht, Faculty of Law  
Department of Corporate, Commercial and Financial Law  
Nobelstraat 2A, 3512 EN Utrecht  
The Netherlands  
Advocate and admitted to practice law in The Netherlands  
Member of the Amsterdam and Dutch Bar Associations

### **EDUCATION**

McGEORGE SCHOOL OF LAW, Master of Laws Degree (LL.M.), Sacramento, California. (1988).

Area of concentration: International Business Law and Taxation, Transnational Practice.

Courses: Commercial Law, International Business Transactions, American Business Law, Problems in Foreign Investment, International Commercial Litigation and Arbitration, etc.

VRIJE UNIVERSITEIT, “Doctoraal Examen” in Dutch Law, Faculty of Law, Amsterdam, The Netherlands. (1980).

Area of concentration: Dutch Law and International Law.

WEBSTER UNIVERSITY, Department in Leiden, The Netherlands, Master of Business Administration (M.B.A.), Candidate.

Area of concentration: Finance and Management.

SAN FRANCISCO STATE UNIVERSITY, MBA Course Work, San Francisco, California. (1987).

My obtained credits were transferred to Webster University.

### **LEGAL EXPERIENCE**

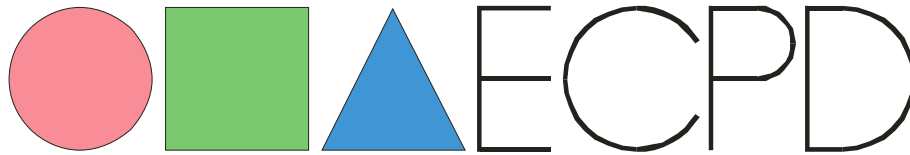
ASSOCIATE PROFESSOR OF LAW, University Utrecht, Faculty of Law, Section Corporate and Commercial Law, The Netherlands. (January 1992-present).

Responsibilities: Legal research, publishing and lecturing on the subject of international and national aspects of Corporate Law, Corporate Financial Law, Groups of Companies Law, Mergers and Acquisitions, Asset Based Financing and Leasing, Banking Law, Commercial Law and more. I also have lectured on these areas of the law for audiences in Aruba, Latvia, Surinam and the United States.

GUEST LECTURER, University of Leiden, International Institute of Air and Space Law, 2001-present. My classes concern international asset-based financing and leasing transactions. Most of the students are foreign Master of Law (LL.M.) graduates.

RESEARCH GRANTEE, to do research at the Université de Paris I, Panthéon-Sorbonne, Paris. In 1998 I have received a grant from the Governmental Scientific Agency (NWO) to do research in France with regards to the French (international) financial leasing legislation (crédit-bail).

RESEARCH GRANTEE, UNIDROIT, Rome, Italy. In 1999 I have been able to do research concerning the coming UNIDROIT Convention on International Interests in Mobile



Equipment with UNIDROIT, the Governmental International Institute for the Unification of Private Law.

GUEST LECTURER, University of Aruba, Dutch Caribbean. During the period 1996-1999, every consecutive academic year for five months, I have been a guest lecturer in corporate and commercial law with the Law Faculty of the University of Aruba. The subjects concerned Corporate and Commercial Law.

CONSULTANT, Open University, Faculty of Law, Heerlen, The Netherlands. (1993-1998).

Responsibilities: Legal adviser to the program European Sales Contracts.

LECTURER, Arnhem and Nijmegen School of Business, August 2002-present.

Responsibilities: Lecturing on the subject of Corporate and Commercial Law.

GUEST LECTURER, Haarlem School of Business, 2001.

LECTURER, Utrecht School of Business, Utrecht, The Netherlands. (1993-1997).

Responsibilities: Lecturing on the subject of International Commercial Law and European Community Law.

LECTURER, Amsterdam School of Business, International Business Department, Amsterdam, The Netherlands. (1991-1993).

Responsibilities: Lecturing on the subject of International Commercial Law and European Community Law.

CONTRACTSPECIALIST, Jacobs Engineering Group, Inc., Pasadena, California. (1991).

Responsibilities: For its daughter company Robert E. McKee, Inc., a General Contractor in Los Angeles I have been adviser to its management and I have drafted construction contracts.

INTERNATIONAL LEGAL CONSULTANT, Law Offices of D. Sullivan, San Francisco, California. (1988-1990)

Responsibilities: Legal Consultant with regards to international contracts and transnational litigation. The firm had an international practice with primarily European clients.

INTERN, Law Offices of Weadon, Dibble and Rehm, San Jose, California. (1987).

LEGAL COUNSEL/AUTHOR, WEKA German International Publishing Group, Amsterdam, The Netherlands. (1984-1991).

Responsibilities: Consultant and writer regarding management labour issues, corporate law, international commercial law and EEC law.

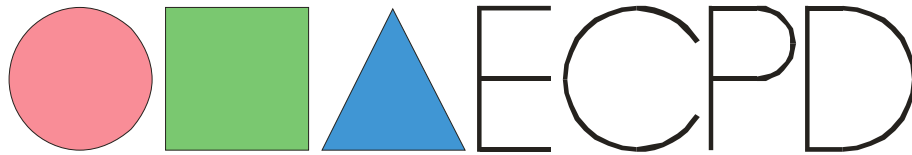
CORPORATE SECRETARY/LEGAL COUNSEL, STIMA, Association of Manufacturers and Wholesalers, The Hague, The Netherlands. (1981-1984).

Responsibilities: Supervision and implementation of Board of Directors decisions, drafting and negotiating contracts and collective labour agreements.

### ***RECENT ACTIVITIES***

Speaker at the Annual Meeting of the American Bar Association, Aviation Finance Subcommittee in Atlanta on August 7, 2004. My Presentation concerned the secured interests of airline companies under Dutch and American property law and the Convention of Cape Town.

Collectively, the major Dutch airlines organized a Seminar concerning the legal aspects of international aviation financing at Amsterdam Airport on 7 October 2004. I was one of the principal speakers.



Consultant to major international Dutch banks, leasing companies and the Dutch Ministry of Justice and Ministry of Transportation.

Member of the Rail Working Group. The RWG consists of representatives of international organisations, top law firms and international banks, producers and highly qualified academics who are specialised in the legal aspects of the financing of trains. The main goal of the group is the drafting of the forthcoming Railway Rolling Stock Protocol. This Protocol will be added to the existing Convention of Cape Town.

Delegate: on behalf of the Rail Working Group to the Diplomatic Conference in Cape Town, South Africa on the realisation of the Convention on International Interests in Mobile Equipment and the Aircraft Equipment Protocol (November 2001). These Documents are by any standard ambitious and extremely complicated instruments. They provide for a set of uniform proprietary rules, create an international interest and establish a regime for international private law, international insolvency law and international contract law.

Speaker at the IUS COMMUNE Conference, which took place at the University of Maastricht on 27-28 November 2003. Lawyers from various countries attended the Conference. My presentation concerned the modern asset based financing and leasing transactions under the Convention of Cape Town (mobile equipment: aircraft, commercial satellites, trains, ships, containers and trucks).

Speaker: at the Conference on International Securities and Finance and Conference on Mergers and Acquisitions. From 10-13 October 2002 the Centre for International Legal Studies (CILS) has organised this Conference in Salzburg, Austria. Lawyers from Europe, North America and Asia have attended the meeting.

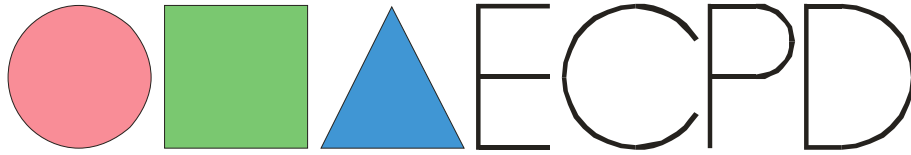
Participant: the UNIDROIT Conference on Worldwide Harmonisation of Private Law and Regional Economic Integration, 27-28 September 2002, Rome.

Representative: Second Session of the Joint Committee of Governmental Experts for the preparation of a draft Protocol specific to Railway Rolling Stock, 17-19 June 2002, Rome.

Organizer and Speaker: at the Conference on the UNIDROIT Convention on International Interests in Mobile Equipment: real rights from international and national perspectives. The Conference took place at the University of Utrecht on 30 November 2001. Lawyers from many European, Asian, African and North American States attended the Conference.

Speaker: Surinam Bar Association and Association of Surinam Civil Law Notaries, Paramaribo, Republic of Surinam, February 2000.

Speaker: Aruba Association of Commercial Law, 1999. Members are academics, practicing lawyers, civil law notaries and law students. My presentation concerned the leasing transaction as a modern financing technique in Aruba.



## HORVÁTH Éva

### ***Present position***

President of the Arbitration Court attached to the Hungarian Chamber of Commerce and Industry Associate Professor of the Pázmány Péter Catholic University, Budapest.

### ***Education***

1967-72, Eötvös Loránd University for Sciences, Budapest Faculty of Law (Doctor of Law).  
1973-75, Post-doctorate studies in international commercial law at the same university.

### ***Professional career***

1972-75, legal training with a Hungarian foreign trading company; 1975-82, Legal Counsel at the same company; 1982-89, Senior Lecturer, later Associate Professor of the Academy of Foreign Trade, Budapest; 1989-90, Head of the Legal Department of the Hungarian Chamber of Commerce at the same time ass. Prof. at the Academy of Foreign Trade, Budapest; 1990-President of the Court of Arbitration; 1992 – , Lecturer at the Eötvös Lóránd University, Faculty of Law; 1995 – , Associate Professor of the Pázmány Péter Catholic University, Budapest;

### ***Main professional activities***

Arbitrator in the panel of the International Arbitral Centre of the Federal Economic Chamber Vienna; national correspondent of Hungary to UNCITRAL; Corresponding member of the Institute of Business Law and Practice of the International Chamber of Commerce, Paris; Member of the London Court of International Arbitration; Member of the WIPO Arbitration Consultative Commission. Lectures on professional conferences (as invited speaker): in Vienna, Cairo, Zurich, Taipei, Berlin, Cannes, Linz, the Hague, Atlanta, etc.

### ***Publications***

- *Books*

*Nemzetközi Kereskedelmi Jogi Ismeretek (International Commercial Law)*, study-book for the students of the Academy of Foreign Trade, Budapest, 1987;

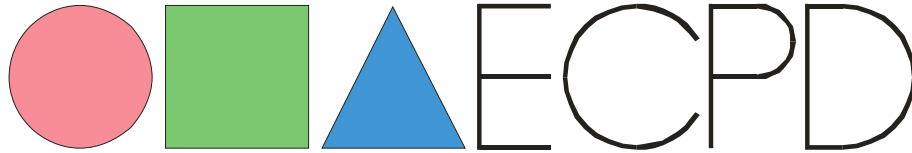
*Versenyjogi és Reklámjogi Ismeretek (Information on Fair Competition and PR Law)* - handbook, Budapest, 1989;

*Nemzetközi eljárások joga - A kereskedelmi választottbíráskodás (Law of International Proceedings - Commercial Arbitration)*, Budapest, Osiris, 1999;

- *Articles and contributions to edited volumes*

*Das neue Gesellschaftsrecht (Ungarn)*, Economy, 1-2/91, Austria;

*A Bécsi Egyezmény és a Magyar PTK Felelősségi Rendszere (System of Liabilities in the Vienna Sales Convention and the Hungarian Civil Code)*, Budapest, Külgazdaság (External Economy), Vol. XXIX, No. 3/1984, pp. 33-43; No. 4/1984, pp. 49-54;



*Schiedsgerichtsbarkeit in Ungarn*, Jahrbuch f. die Praxis der Schiedsgerichtsbarkeit, Band IV - Verlag Recht und Wirtschaft, Heidelberg, 1990, pp. 65-70;

*A CMR Felelősségi Rendszer (System of Liabilities of CMR)*, Budapest, Külgazdaság (External Economy), Vol. XXXIII, No. 5/1988, pp. 33-40;

*Arbitration Court Handles Bulk of Commercial Arbitration in Hungary*, World Arbitration and Mediation Report, Vol. 2, No. 4, April, 1991;

*Arbitration in Hungary*, Hungarian Economic Review, No. 2, June, 1991;

*A Külkereskedelmi Tevékenység Jogi Kézikönyve (Legal Manual of Foreign Trade Activity)*, Chapter 16, Arbitration; JTJ, Budapest, 1991;

*A (nemzetközi) kereskedelmi választottbíráskodásról (International/ Commercial Arbitration)*, Jogtudományi Közlöny (Legal Gazette), Vol. XLVII. 1992, No. 7-8, Budapest;

*Schiedsgerichtbarkeit in Ungarn*, Investition und Information, No. 1/1993, Orac Verlag, Wien

*Arbitration in Hungary*, Hungarian Business Herald, No. 1993/2, Budapest;

*Arbitration in Hungary, Problematics of the Moscow Convention*, 10 Journal of International Arbitration (Switzerland) No. 1/1993, pp. 17-24;

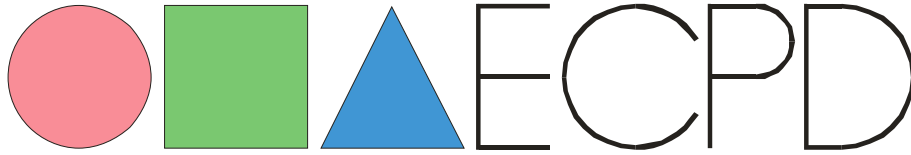
*Arbitration in Central and Eastern Europe*, 11 Journal of International Arbitration, 2/1994;

*The New Arbitration Act in Hungary*, 12 Journal of International Arbitration, 3/1995;

*A választottbíráskodásról szóló törvény általános rendelkezései a gyakorlat tükrében (General Provisions of the Arbitration Act in the Practice)*, Jogtudományi Közlöny (Legal Gazette), Budapest, Vol. L, No. 1995/4, pp. 171-7;

*Eljárási kérdések szabályozása a választottbíráskodásról szóló törvényben (Regulation of Procedural Questions in the Arbitration Act)*, Jogtudományi Közlöny (Legal Gazette), Budapest, Vol. L, No. 1995/5;

*A választottbíráskodásról szóló törvény gyakorlati alkalmazása (General Provisions of the Arbitration Act)*, Jogtudományi Közlöny (Legal Gazette) LIV. évfolyam 1999. 7-8. sz. Budapest, pp. 335-341.



## IVANJKO Šime

### ***Present position***

Dean and Professor of Business Law, Insurance Law and Competition Law at the Law Faculty, University of Maribor; Managing Director of the Postgraduate Studies at the same faculty; President of the Court of Honour at the Slovenian Chamber of Commerce; Full member of the Croatian Academy of Legal Sciences; Consul emeritus of Croatia in Slovenia.

### ***Education***

Born in 1940, Croatia. 1965, graduated law at the University of Ljubljana, Slovenia; 1970, LL.M. in Insurance Law, Law Faculty, University of Zagreb, Croatia; Postgraduate study at the Max-Planck Institute in Hamburg; 1974, PhD degree at the Law Faculty, University of Ljubljana.

### ***Professional career***

1962-65, employed at the Insurance Agency, Maribor; 1965-70, Legal Adviser, Metalna, Maribor; 1970, Assistant, then Assistant Professor at the Law Faculty, University of Maribor; 1988, Full-time Professor for Business Law at the same faculty; 1990, Head of Business Law Department, lecturing Business Law, Insurance Law and Competition Law; Two times elected Dean of the Law Faculty; Vice-rector of the University of Maribor; 2003, Dean of the Law Faculty, elected for 4 years.

Founder, and for more than ten years Managing Director of the Institute for Business Law at the Law Faculty Maribor; Founder of the Institute for Insurance Law and the Institute for Tax Law in Maribor.

Lectured Business Law at the Law Faculty University of Rijeka, Croatia; and Economic Faculty, University of Maribor.

Visiting Fellow, Max-Planck Institute, Hamburg; and universities of Marburg, Munich, Vienna and Graz.

Ex-president of the Association of Insurance Organisations of Yugoslavia; and Ex-president of the Court of Honour at the Yugoslav Chamber of Commerce.

### ***Membership in professional societies***

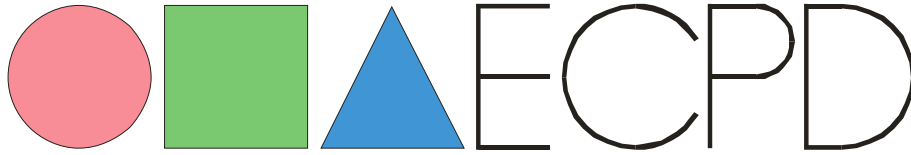
Member of the Lawyers' Society of Maribor; and Vice-president of the Federation of Legal Societies of Slovenia.

### ***Publications***

More than 1.200 bibliographic items, mostly in the field of law, published mostly in Slovenian and partly in Croatian, Serbian and German language.

Started several journals, e.g. "Pravna praksa" (Legal Practice) and "Podjetje in delo" (Business and Work); Editor-in-Chief "Davčna in finančna praksa" (Tax and Financial Practice), published monthly.





## KNEZ RAJKO

1993-2007 - Law faculty University of Maribor, Academic, Associate professor, Dean of the Law faculty University of Maribor, Jean Monnet Chair-European Legal Studies, Professor at the Law Faculty University of Maribor for **European Law, Private International Law and Environmental Protection Law**. Member of Institute for Civil, Comparative and Private International Law at the University of Maribor, and also a member of Institute for Commercial Law and general manager of Institute on the Law on the European Union., From June 2007 **dean** of the Law faculty University of Maribor

1989-1993 - University of Maribor, Law Faculty, Maribor (Slovenia), University Degree Lawyer (LL.B.)

1993-2000 - University of Maribor, Law Faculty Maribor (Slovenia), Postgraduate Diploma - Master of Law and Doctor of Law

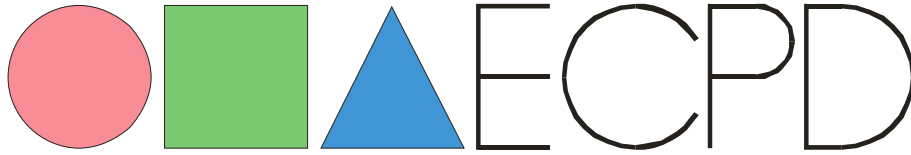
1993-up to know - Generally: Law Faculty University of Maribor (principal place of employment), and study visits abroad: Austria - Karel Franzens University in Graz – European Law- 1993, 1994; Germany – Institute for Water Law, Bonn – Environmental Law – 1994, Great Britain - Kingston University Programme - Doing Business with England – Commercial Law – 1995, Italy – Institute for European Law, Venice – European Law – 1995, Netherlands - Institute for European law (Law Faculty University of Amsterdam) – 1996 and 1997 - European Law generally, European Private International Law and Procedure, European Consumer Law, USA: - Private practice in Law Offices Moore & Bruce - Washington D.C., USA, - Private practice in Mezzullo & McCandlish - Richmond, USA - practice in Law Library of Congress, Washington, D.C. , usa– all 1997 – all Environmental law, Commercial law, - Luxembourg – 2005 – Court of Justice of the European Communities and Court of the First Instance of the European Communities, Luxembourg

He grown up in the multicultural environment, accompanied with foreign works and their families in industrialized town Velenje. He is acquainted with the teamwork and he possesses necessary cooperation skills. Communication skills are well developed also trough the classes, lectures, seminars, theoretical exercises and project oriented work.

He has been engaged in several organizational projects like being **executive director** in TEPMPUS project 07783/94 under which Law the Faculty University of Maribor was co-coordinating together with Amsterdam University as a Contracting Party (other parties were Law faculty University in Trieste (I), Law faculty University Karel Franzens in Graz (A) and Law faculty University in Ljubljana (SLO)).

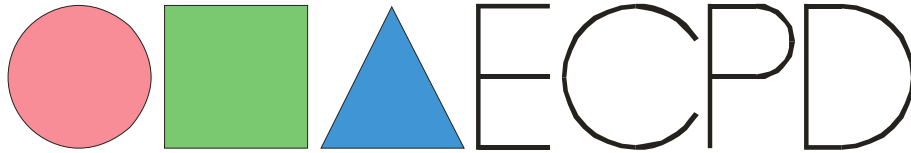
He was the titleholder responsible for: **Jean Monnet Module – C03/0099 – Free Movement of Services and Workers – Slovenian Perspective under EC Rules and Effect of European Citizenship.**

He is the titleholder responsible for: **Jean Monnet Module 2004 – 2972 / 001 – 001 - Giving Effect to European Community Law in the Light of the Horizontal Direct Effect of Directives at Slovene Courts and Jean Monnet Chair 2007 – 1560 /001 – 001 – European Legal Studies**



#### PROFESSIONAL EXPERIENCES

- From 1994 on he has been engaged in **teaching activities as a assistant and assistant professor** in the fields of **Private International Law, Law on European Communities and Environmental Law**;
- From 1998 on he is engaged with the **PPP project** (Concession for the Waste Water Treatment) in Maribor as legal adviser.
- Currently he is a assistant professor and his activities on **European community law** features (history, institutions, legislation, four freedoms, competition etc) are more advanced in the fields of basic freedoms -- **freedom to provide services, freedom of establishment**, etc;
- Currently he is an assistant professor also for the **Private International Law**, covering both general part of PIL and also applicable law rules, international jurisdiction rules, rules of recognition and enforcement of foreign judgments. He is a title holder of the post-degree teaching subject **PIL and international contracts**;
- He is also an assistant professor for **(European) Environmental law**. This teaching subject covers environmental law aspects in Slovenia legal order as well as certain aspects from EC law (horizontal and specific issues) and beyond – like civil liability for environmental damage etc. It covers **full secondary environmental law of the EC**;
- Apart from being an assistant professor at the Law Faculty University of Maribor, he was engaged in teaching activities at the **Faculty of Business and Economics**. He teaches the **Marketing Law**;
- Within the post-graduate law programs of different faculties he is s holder of three teaching subjects: (i) **European Court of Justice and Legal Remedies**; (ii) **Services, Free Movement of Workers and Social Politic** (iii) **Private international law and the European international procedural law**.
- Apart from academic activities he is engaged in practising law through several institutes: (i) **Institute for Commercial Law**; (ii) **Institute for Civil, Comparative and Private International Law**; (iii) **Institute on the Law on European Union**.
- He is also occupied with the **Consumer Protection Law**. In this field of interests he also published several articles in Slovenia and abroad (legal reviews like IPRax, Law and undertakings etc) with respect to Slovene and comparative national and European consumer protection law like: *Consumer law and care for consumer health in EU (2003)*, *Consumer rights in non-conformity cases in EU (2002)*, *Unfair commercial clauses in consumer contracts under the directive 1993/13/EEC (2003)*, *Consumers won against Austria (case of state liability (2003)*, *Who is responsibly to the consumer in case of product liability under Slovene and EU law? (2003)*, *Consumer protection in the EU (2004)*, *Influence of the European consumer law politic on the Slovene one (2004)*, *Prorogatio fori in financial contracts with a consumer (2004)*, etc. He has also performed number of lectures regarding the consumer law especially to the *Slovene Chamber of Commerce* and also in cooperation with private and public education organizations. He is the author of several legal opinions regarding



consumer law. He is well acquainted with the every day problems in practice. Just recently published (together with other authors) a book titled *European Consumer Law*, first monograph in Slovenia dealing systematically with the European Consumer Law and its case law of the European Court of Justice. In 2006 he was **Expert 1** of the CARDS 2000 Project: **Capacity Building for Non Governmental Consumer Protection Associations in Croatia.**

- He is a member of the **Arbitration tribunal at the Slovene chamber of commerce.**

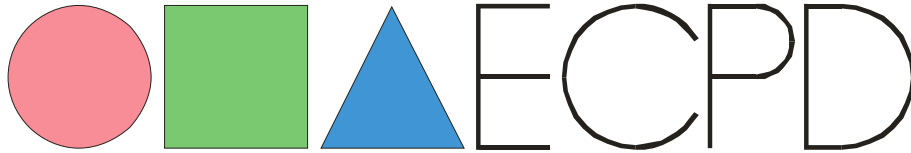
**List of relevant publications: - Monographs:**

KNEZ, Rajko: *Free Movement of Persons in the EU; Prosto gibanje oseb v EU : gradivo za študente magistrskega študijskega programa Gospodarsko pravo EU.* [Bruselj]: Jean Monnet European Module, 2004.

KNEZ, Rajko: *Civil Liability for Environmental Damage in Substantive and Private International Law; Odgovornost gospodarskih subjektov za obremenjevanje okolja v materialnem in mednarodnem zasebnem pravu.* Maribor: Pravna fakulteta, Inštitut za civilno, primerjalno in mednarodno zasebno pravo, 1998. [XI], 143 str., graf. prikazi. ISBN 961-6009-55-9.

KNEZ, Rajko, MUŽINA, Aleksij, SLADIČ, Jorg, VESEL, Tomaž: *Decisions of the ECJ and CFI with Explanations; Odločitve Sodišča evropskih skupnosti in Sodišča prve stopnje : s pojasnili.* Ljubljana: Nebra, 2004. 884 str. ISBN 961-91392-0-8.

BAPULY, Bedanna, KNEZ, Rajko, KMECL, Andrej: *The EU law in Slovene Courts; Pravo EU pred slovenskimi sodišči.* 1. natis. Ljubljana: GV založba, 2005.



## **KRONKE Herbert**

### ***Present position***

Secretary General of UNIDROIT (International Institute for the Unification of Private Law), Rome; Professor for Private Law, Commercial Law and Private International Law, University of Heidelberg, Germany (on leave).

### ***Education***

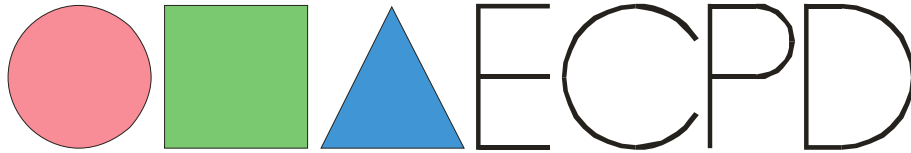
Born in 1950. Received his academic education at the universities of Mainz, Edinburgh/Scotland, and Hamburg; Following graduation (Ref. iur., i.e. 1st State exam, 1976), practical training and 2nd State exam (Ass. iur.) he took a Dr. iur. degree from the Faculty of Law, University of Munich (1979); After various years as fellow of the Max-Planck Institute for Foreign and Private International Law in Hamburg he took a Dr. iur. habil. degree (1987) in Trier.

### ***Professional career***

Involved in research and lecturing at the universities of Bologna (1982) and Ferrara (Italy) (regularly since 1987), and at the University of California, Berkeley, Calif. (USA) in 1984/85; He was visiting scholar at McGill University, Montréal (Canada), in 1991/92, and director of studies at the Hague Academy of International Law in 1993. In 1996, taught as visiting professor at Georgetown University Law Center in Washington, D.C.; In 1997, he was visiting professor at the Universidade Federal do Rio Grande do Sul, Porto Alegre (Brazil); In 1999 he taught the course on conflict of laws (in the area of capital market law) at the Hague Academy of International Law.

### ***Professional activities***

Member of the Working Group on International Commercial Practices of the National Committee of the ICC, the German Institution of Arbitration and the Swiss Arbitration Association, the London Court of International Arbitration (European User Group), the panels of the Cairo Regional Centre for International Commercial Arbitration and the Italian-German Chamber of Commerce, Milan; He serves both in ad hoc, ICC and other institutional arbitrations. Professor Kronke is Co-Editor of "*IPRax – Praxis des internationalen Privat- und Verfahrensrechts*" (Bielefeld), a bi-monthly covering conflict of laws, international civil procedure and international commercial law, and member of the Board of Editors of "*Contratto e impresa*" (Padua), a quarterly on contract and business law. He is editor-in-chief of the "*Uniform Law Review / Revue de droit uniforme*" (Rome).



### **KUITEN Bernard**

Born on 19 August 1965 in the Netherlands and educated at Katholieke Universiteit Brabant. Degree in international economics (Drs).

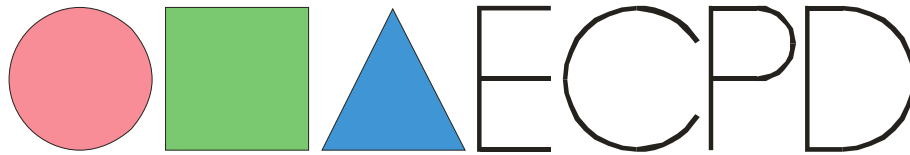
Professional career started in 1990 at the Ministry of Economic Affairs of the Netherlands, Directorate General for Foreign Economic Relations. Represented the Netherlands at EU, OECD and WTO level dealing *inter alia* with shipbuilding, steel and trade in services in general. Active participation in the last two years of the GATT Uruguay Round of negotiations in 1992 and 1993.

From 1995 to 1996, worked in Brussels, Belgium with the European Commission, Directorate General for External Relations, holding responsibility for trade in financial services, basic telecommunications services and audiovisual services. Active participation in the WTO negotiations on financial services and telecommunications services in 1995 and 1996.

From 1997 to 1999, first secretary at the WTO Unit of the Permanent Mission of the Netherlands, Geneva, Switzerland. Extensive coverage of various WTO files, including agriculture, investment and dispute settlement at large. Chairman of the WTO Working Party for State Trading Enterprises in 1999.

As of 1 September 1999, senior member of the External Relations Division of the World Trade Organization. Overall responsible for maintaining, coordinating and expanding non-governmental organizations and business relations.

Additional professional activities: WTO lectures and teaching.



## LANDO Ole

### ***Present position***

Emeritus Professor and External Lecturer at the Copenhagen Business School, part-time Professor at the University of Gent

### ***Education***

LLM, 1947; dr. juris at Copenhagen University; 1963; dr. econ. honoris causae at the Stockholm School of Economics; 1989; dr. juris honoris causae at the University of Osnabrück, Germany, 1997; and at the University of Fribourg, Switzerland, 1998.

### ***Professional career***

Professor of international and comparative commercial law at the Copenhagen Business School, 1963-1992; Director of the Institute of European Law at the Copenhagen Business School, 1967-85; Taught European Private International Law at the College of Europe, 1989-2000; Visiting professor at various American and European universities, among them the University of Rotterdam, 1994; University of Oxford, 1996; Tulane University, 2001.

### ***Other activities***

President of the Danish Society of European Law, 1973-95; and of la Fédération internationale pour le droit Européen, 1977-78; Chairman of the Commission on European Contract Law, 1980-2003; Titular member of the International Academy of Comparative Law; Member of the Royal Uppsala Academy of Sciences and of the Finnish Academy of Sciences; Corresponding Collaborator of UNIDROIT, Rome and member of the UNIDROIT working group which prepared the Unidroit Principles of International Commercial Contracts, 1994 and 2004; Member of the Groupe européen de droit international privé and of the Academia Europea.

### ***Honours***

Has Received a Finnish and two Danish prizes for scientific achievements, and in 2002 the German Humboldt Research Prize for Foreign Humanists (Humboldt-Forschungspreis für ausländische Geisteswissenschaftler).

### ***Publications***

- *Books and articles published*

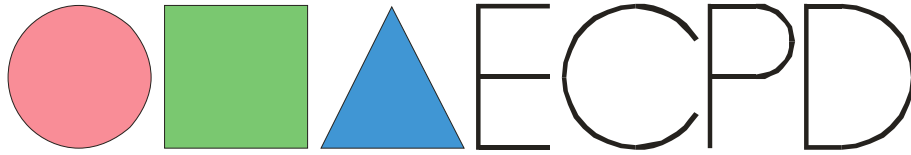
Has Published books and articles in Danish, mostly on private international law and comparative law, and in English:

*Chapter 24 on Contracts in the International Encyclopaedia of Comparative Law*, Volume III. Private International Law, 1977, p. 159;

*The Conflict of Laws of Contracts, General Principles in Recueil des Cours de l'Académie de Droit International Volume 189*, 1985 Session, pp. 229-445;

Since 1957 about sixty articles in law reviews and Festschriften on private international law, comparative law and the law of the European Communities.

- *Books edited*



## **LEBEDEV Sergei**

### ***Present position***

Professor and Head of Private International and Civil Law Department, Moscow Institute of International Relations; Chairman of the Maritime Arbitration Commission; Member of the Presidium of the International Commercial Arbitration Court, Russian Chamber of Commerce and Industry.

### ***Education***

Born in Sebastopol (former USSR), 1934. Graduated from the Law School of the Institute of Foreign Trade in Moscow; 1961-62, school year in the University of Michigan, USA; 1963, got the degree of candidate of legal sciences at the Moscow Institute of International Relations.

### ***Professional career***

Since 1972, the Chairman of the Maritime Arbitration Commission, also a member of the Presidium of the International Commercial Arbitration Court at the Russian Chamber of Commerce and Industry; Acted as an arbitrator in more than 600 international cases in Russia and abroad, particularly in Stockholm, Warsaw, London, Beijing, Helsinki, Geneva, Kiev. Participated in the work of international organizations including UNCITRAL (since 1970); Council of Mutual Economic Assistance, International Council for Commercial Arbitration (Honored Vice-President); UN Compensation Commission (member of Panel); Economic Commission for Europe, Hague Conference of Private International Law, and at diplomatic conferences for adoption of conventions on sale of goods (1974, 1980, 1985); sea carriage (1978, 1990); arbitration (1972, 1985, 1998) etc. Member of the Russian President's Council for Judicial Reforms (appointed in 1996, reappointed in 2000).

### ***Honours***

Honour Jurist of the Russian Federation (1994).

### ***Publications***

Published books, articles and other publications on private international law, comparative civil law, legal matters of international commerce, including many writings on arbitration.

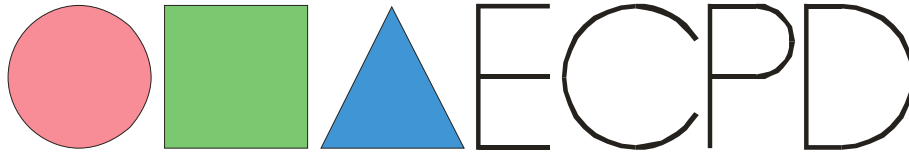
- *Most important books*

*International Commercial Arbitration*, 1964;

*Arbitration in the USSR*, 1978;

*Competence of Arbitrators and Agreement of the Parties*, 1989;

*Interim Measures in Arbitration*, 1999.



## **MATTHEWS Ron**

### ***Present position***

Academic Leader and Programme Director, Master of Defence Administration, RMCS-Cranfield University; Visiting Professor, Institute of Defence and Strategic Studies, Nanyang Technological University, Singapore; Visiting Professor, Birmingham University MBA Programme; Visiting Professor, Joint Services command and Staff Course, Watchfield.

### ***Education***

Born in 1948; 1976-1981, PhD in Development Economics, Glasgow, (Thesis title "The Techno-Economic Development of the Indian Machine Tool Industry, with Special Emphasis on Aspects Affecting Efficiency"); 1991-1994, MBA, Warwick; 1972-1974, Masters Degree in Financial Economics, Bangor, UCNW; 1968-1972, BSc(Hons) in Behavioural Sciences, Economics 2.2, Aston.

### ***Professional career***

1979-80, NATO Research Fellow; 1982, Research Scholar, University of Lund, Sweden; 1984-85, Robert S. McNamara World Bank Research Fellow, Nairobi University; 1985, Post-doctoral Research Fellow, University of Capetown, South Africa; 1989, NATO Research Fellow, Hoover Institute of War, Revolution and Peace, Stanford University; 1990, Research Scholar, Centre for Advanced Studies, National University of Singapore, Nuffield Foundation grant; 1992, Research Fellow, Institute of Strategic Studies, Islamabad, Pakistan, ESRC grant; 1996-1997, Research Consultant, APC Warrior Supply Chain Project, DTI contract.

### ***Publications***

*Saudi Arabia: Development through Technology Offsets*, in J. Brauer and P. Dunne: *Arming the South*, Palgrave, 2002;

*Managing the Revolution in Military Affairs* (ed. with Professor Jack Treddenick), MacMillan Press, 2001;

*Technology-sharing in International Aerospace Collaborative Projects: The Case of Eurofighter*, *International Journal of Aerospace Management*, Inaugural issue Autumn 2000;

*Technology Transfer: An Examination of Britain's Defence Industrial Participation Policy* (with Richard Williams), *RUSI Journal*, April 2000;

*Defence Industry Restructuring in Pacific Asia* (with John Lovering), in Mary Kalder et al (eds.): *Restructuring the Global Military Sector: The End of Military Fordism*, Francis Pinter, 1998;

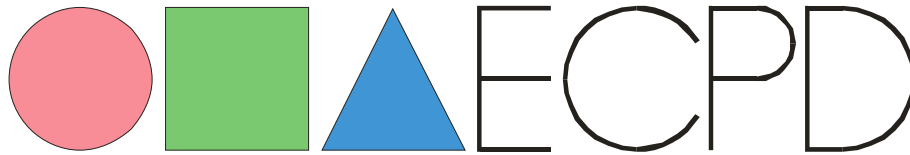
*Prime Contracting in Major Defense Contracts* (with J. Parker), *Defence Analysis Journal*, Volume 15 No.1, pp. 27-41, Lancaster University, April 1999;

*Offsets to Grow?*, *Jane's Pointer*, December 1998;

*Saudi Arabia's Defence Offset Programmes: Policy, Performance and Prospects*, *Journal of Defence and Peace Economics*, 1996, Vol 7, pp. 233-251;

*Defence Industrialisation Through Offsets: The Case of Japan* (with M. Chinworth), in S. Martin (ed): *The Economics of Offsets: Defence Procurement and Countertrade*, Harwood Academic Press, 1996;





## PEROVIĆ Slobodan

Septembar 10, 1932; Prokuplje, Serbia

**Nationality:** Serbian

**Education:** 1952-1956 Faculty of Law, University of Belgrade LLB  
1963 Faculty of Law, University of Belgrade PhD  
Civil Law

**Position:** President of the Court of Serbia and Montenegro  
Full professor, Faculty of Law, University of Belgrade  
Member of the Slovenian Academy of Sciences and Arts  
Member of the Montenegrin Academy of Sciences and Arts

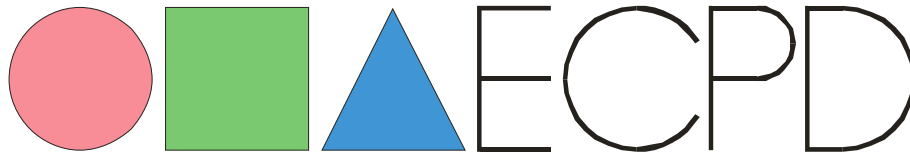
Member of the Academy of Sciences and Arts of Republika Srpska. President of the Jurist's Association of Serbia and Montenegro, President of the Scientific Society of Serbia (natural and social sciences, 116 members) Founder of the Kopaonik School of Natural Law Arbitrator in international commercial arbitrations President of Bar Exam Commission of Republic of Serbia Visiting professor, Commercial Academy, Novi Sad Visiting professor, Faculty of Law, University of Banja Luka, Visiting professor, Faculty of Law, University of Podgorica, Editor in chief of the Commentary of the Code of Obligations, Editor in chief of the journal "Legal life", Editor in chief of the journal "Scientific review", Editor in chief of the Encyclopedia of Civil Law, Editor in chief of the General Encyclopedia of Law (in progress), President of the editorial board of the "Classics of the Yugoslav Law"

### **Membership of professional bodies:**

President of the Jurists' Association of Serbia and Montenegro  
President of the Scientific Society of Serbia  
Société de législation comparée, Paris  
Association Henry Capitant des amis de la culture juridique française, Paris (coordinator for Serbia and Montenegro)

### **Key qualifications:**

- Overall achievement in all fields of law influenced development of legal theory and practice in Serbia and Montenegro as well as in European legal culture
- Founder of the Kopaonik school of Natural Law. the school has been continually holding its annual sessions for 17 years. Every year 2500 lawyers from almost all European countries participate in its work. So far, the School Library numbers 48 volumes (vol. contains about 1000 pages)
- Editor in chief of the Commentary of the Code of Obligations



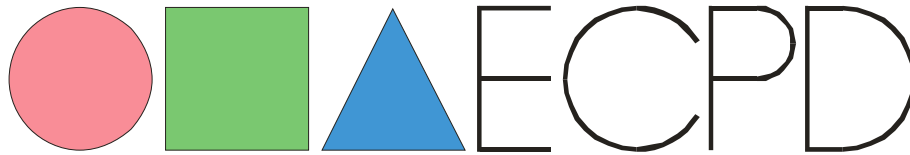
- Head of postdoctoral studies for more than 15 years
- Mentor of numerous master and doctoral theses
- Head of Department of Civil Law, University of Belgrade in two mandates
- Head of the scientific Project "Serbia as a legal State" executed by Faculty of Law (20 000 notions, 200 yugoslav and international authors)
- Advisory Services and Legal Drafting on behalf of the Serbian and Yugoslavian Governments
- International expert in drafting the Code of Obligations in Bosnia and Hercegovina, angaged by the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)
- Participaton at numerous scientific conferences, both in the country and abroad (over 50), most commonly with the main paper or national report (i.e. Université de Paris I, 1982, report "Influence of the Public Policy on the Validity of Contracts"; XI Congress of Association for International Law in Venezuela, 1982, report "The Role of Non-Juridical Norms in Law")

### **Publications**

The author of numerous books, textbooks and monographs, research studies and several hundreds of papers published in domestic and international publications in the field of civil law, commercial law, comparative law and philosophy of law.

### **Main books**

His main books are "Law on Obligations" (7 editions); "General Theory of Contracts"; "The formal contracts in Civil Law" (3 editions); "Prohibited Contracts"; "Die Kodifikation des Obligationenrechts in Jugoslawien"; "Le role des normes non juridiques dans le droit"; "Retroactions of Laws – Theory of the Conflict of Laws in the Time"; "Contract as an act of Moral and Juridical Civilisation"; "Natural Law and Court" (published on Serbian and French); "Independence of the Judiciary" (published on Serbian, Frech and English); "Human Rights and Independence of the Judiciary"; "Prolongatio iuris naturalis"; "Crisis of legal system"; "The Culture of Legality and Natural Law"; "Power of Natural Law"; "Culture of Natural Law"; "Eternal Youth of the Hexagon of Natural Law"; "Declaration of Natural Human rights (published on English, French, German, Spanish, Russian and Chinese);



## **RODINO Walter**

### ***Present position***

Deputy Secretary-General of the International Institute for the Unification of Private Law (UNIDROIT), Rome, retired.

### ***Education***

Born in 1934 in Italy; 1958, University of "La sapienza", Faculty of Law, Rome.

### ***Professional career***

1958-2004, worked for UNIDROIT, where he held the following positions: 1973-2004, Director of the Library; 1985-2004, Deputy Secretary-General; 1997-1998, Secretary General *ad interim*; Guest Professor of Comparative Law and International Trade Law at the Universities of Naples and Pavia. Lectured and participated in conferences at more than 20 Italian and foreign Universities. Professor *honoris causa* of the Faculty of Law of the Russian Academy of Foreign Trade, Moscow.

1994, General Reporter at the International Congress of the International Academy of Comparative Law, Athens.

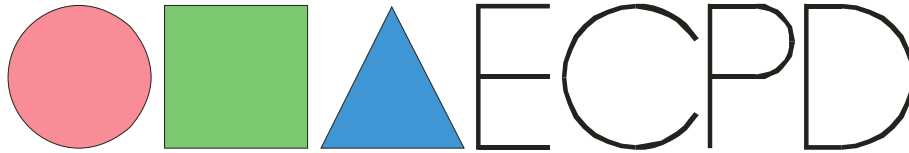
### ***Membership in professional societies***

Member of the International Academy of Commercial and Consumer Law, USA; International Association of Law Libraries; American Association of Law Libraries; Italian Society of International Law.

President of the International Association "Friends of UNIDROIT".

### ***Publications***

Contributed to legal encyclopedias and miscellaneous collections of legal writings.



## SAVIN Andrej

### ***Present position***

Director of Studies in Law, Emmanuel College, University of Cambridge

### ***Education***

1995, BA in Law, University of Belgrade, graduated with 1<sup>st</sup> class Honours equivalent. 1996, LLM in International Business Law, Central European University, Budapest, 1<sup>st</sup> class Honours equivalent (Thesis topic: Mandatory Rules and Ordre Public in the 1980 Rome Convention on the Law Applicable to Contractual Obligations); 2000, PhD in Law, King's College, University of Cambridge (Thesis topic: Community Principle and Choice of Law: The Transformation of Private International Law in the European Union).

### ***Professional career***

1997-98, Acting Director of Studies in Law King's College; Cambridge. 2001 - present, Official Fellow, Emmanuel College, Cambridge; 2001- present, Lecturer, Faculty of Law, University of Cambridge; 2002 - 2003, Director of Studies in Law, Kings College, University of Cambridge; 2004, Director of Studies in Law, Emmanuel College, University of Cambridge.

### ***Other activities***

1997-2000, Constitutional and Legislative Policy Institute, Budapest, advised on the curriculum for postgraduate courses on EU law. Edited texts and cases for courses on International Commercial Arbitration and Drafting International Commercial Contracts. 2003-04, Law Faculty, University of Cambridge, worked on redrafting of EU syllabus at both undergraduate and postgraduate level that resulted in redesigning of the course and the introduction of a new discipline.

### ***Recent publications***

*Service of Process Abroad under the Hague Conferences*, in: *Judicial Cooperation Between United States and Europe*, University of Columbia, New York, 2003;

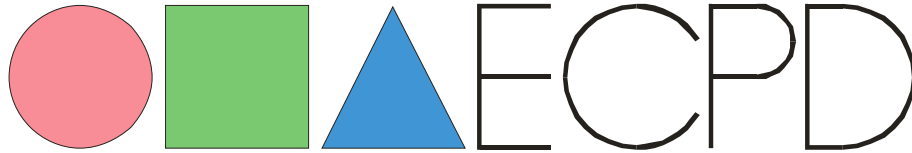
*The Impact of Four Freedoms on Jurisdiction under the Brussels Regulation*, in: *International Commercial Litigation in Europe*, University of Barcelona, Barcelona, 2003;

*The Internet and its Regulation in the EU*, 6 Cambridge Yearbook of European Law, 2003;

*Détermination du for compétent: les nouveaux défis – droit communautaire: économique*, in: *Transnational Civil Litigation in the European Judicial Area and in Relation With Third States*, Université Libre de Brussels, Brussels, 2004;

*EC Economic Law and International Commercial Litigation*, in: *Judicial Cooperation between European Union and Third States*, Kluwer, 2004;

*Problems of Implementation in the First group of EU Accession Countries*, in: Cremona, M, ed. *Problems of Regional Integration*, 2004.



## **SCHNEIDER Michael**

### ***Present position***

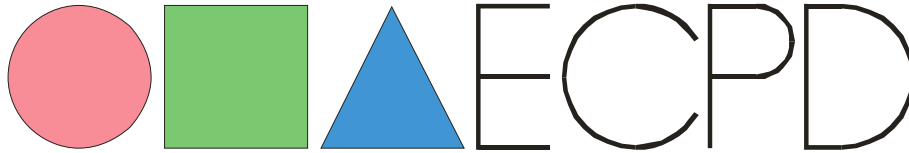
Attorney-in-Law, Meissner, Bolte & Partners, Munich, Germany.

### ***Education***

Law and legal language training (English and French) at the Universities of Passau (Germany) and Tours (France); Practical legal training at the Higher Regional Court of Munich; Internship at the US Court of Appeals for the Federal Circuit in Washington, D.C. (USA); Research assistant and PhD candidate at the Max-Planck Institute for Intellectual Property, Competition and Tax Law in Munich; research on the reform of patent jurisdiction and litigation in Europe; 2001 – 2003 employed at the Administrative Council of the European Patent Organisation; attached, to the EPO Working Party on Litigation; With Meissner, Bolte & Partners since May 2003.

### ***Experience***

All fields of Intellectual Property Law: Litigation, especially Trademarks, Domains and Designs, Unfair Competition, Patents and Utility Models, Copyrights, Antitrust Law. Prosecution of IP-rights especially trademarks and designs; drafting of IP-contracts, especially licence contracts and software agreements.



## SCHULZ Albrecht

### ***Present position***

Attorney-in-law admitted at the bar of Stuttgart, Federal Republic of Germany; Partner with the CMS Hasche Sigle law firm.

### ***Education***

Legal education at the universities of Munich, Tübingen, Innsbruck, Kiel and Paris.

### ***Professional career***

Private practice in Stuttgart and Brussels. In 1976, joined the European Insurance Committee (CEA) in Paris as Deputy Secretary General; In 1982, joined SLS Sigle Loose Schmidt-Diemitz in Stuttgart, which merged in 1999 into CMS Hasche Sigle. CMS Hasche Sigle has offices in Berlin, Chemnitz, Dresden, Düsseldorf, Frankfurt, Hamburg, Leipzig, Munich, Stuttgart, Brussels, Moscow, Shanghai and Belgrade.

Vast international experience in franchise, distribution, agency and related intellectual property and EU matters; Lectured on these matters before national and international audiences, for private and public institutions or for trade associations, among others OECD, International Franchise Association (IFA), European Franchise Federation (EFF), European Center for Peace and Development (ECPD), Austrian Franchise Association, Belgian Franchise Association, British Franchise Association, Dutch Franchise Association, Finnish Franchise Association, French Franchise Association, German Franchise Association, German Franchise Institute, Greek Franchise Association, Hungarian Franchise Association, Spanish Franchise Association, French Bar Association, Finnish Foreign Trade Association, Association of Indian Chambers of Commerce, Indo-German Chamber of Commerce, Lyon Chamber of Commerce, Polish-German Chamber of Commerce, Polish Competition Authority and numerous private organisations.

He was a member of the Study Group on Franchising of the UNIDROIT which has appointed him as a correspondent of UNIDROIT for Germany. Most recently he was a member of UNIDROIT Committee of Governmental Experts which established a Model Franchise Disclosure Law.

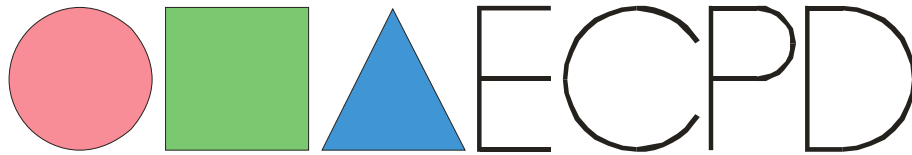
### ***Membership in professional associations***

Member of own national and several international bar associations; Member of the German Franchise Association and of its Legal Committee; Member and former chairman of the Legal Committee of the European Franchise Federation (EFF); 1994-1998, Chairman of Committee X International Franchising of the Section on Business Law of the International Bar Association (IBA). Member of Eurofranchise Lawyers (EFL), a private association of 18 franchise attorneys in 18 European countries.

### ***Publications***

Author and co-author of numerous publications, published in German, French and English, among others:

*Franchising in Europe* (co-author);



## **SEKOLEC Jernej**

### ***Present position***

Secretary of the United Nations Commission on International Trade Law (UNCITRAL) and Chief, International Trade Law Branch of the United Nations Office of Legal Affairs (which functions as the secretariat of UNCITRAL).

### ***Education***

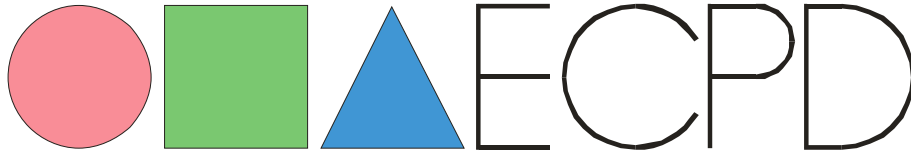
Dr. juris, LL.M.

### ***Professional career***

Prior to joining the International Trade Law Branch in 1982, was a law professor at the University of Maribor, Slovenia; Head of the Department of Commercial Law of the Faculty of Commerce of Maribor University, and a judge; member of the appellate panel of the Court of Appeal Maribor (commercial chamber).

### ***Publications***

Published books and articles on commercial law, including contract law, commercial arbitration, international payments, negotiable instruments, transport law and products liability.



## SLADIČ JORG

2005 – 2007 *Doctor's degree "Einstweiliger Rechtsschutz im Gemeinschaftsprozessrecht - Eine Untersuchung der Rechtsprechung zum einstweiligen Rechtsschutzes des EG/EU-Prozessrechts" at the University of Saarland, Germany (note: summa cum laude)*

2003 *Stagiaire at the Court of First Instance of the European Communities and at the Court of Justice of the European Communities*

2002 *Traineeship for advocates from Central and Eastern Europe organised by "Deutsche Stiftung für internationale rechtliche Zusammenarbeit e.V." Bonn and Cologne, Germany*

2002 *Slovenian bar exam, Ministry of Justice, Slovenia*

1999 - 2000 *Master's degree in German law (LL.M.) University of Trier, Germany (note: summa cum laude)*

1998 – 1999 *Diplôme d'études supérieures spécialisées "juristes européens", University François Rabelais, Tours, France (note: mention assez bien)*

1994 – 1998 *Foury Year's degree in law, University of Maribor, Slovenia (note: summa cum laude)*

### AWARDS

2003 -Young Lawyer of the year 2003, award awarded by the Association of Slovenian Lawyers

1999- Rector's award as best law student at the University of Maribor, Slovenia

### WORK EXPERIENCE

2007 – 2006 *Référéndaire of Advocate general Trstenjak at the Court of Justice of the European Communities* Name and address of employer: The Court of Justice of the European Communities, Bd Konrad Adenauer, L-2925 Luxembourg Sector: European civil service Main activities: *référéndaire* (legal secretary)

2006 – 2004 *Référéndaire at the Court of First Instance of the European Communities* Name and address of employer: The Court of Justice of the European Communities, Bd Konrad Adenauer, L-2925 Luxembourg Sector: European civil service Main activities: *référéndaire* (legal secretary)

2000 – 2004 *Attorney-at-law in the law firm Sladič – Zemljak, Ljubljana, Slovenia* Name and address of employer: Law Firm Sladič – Zemljak, Kersnikova ul. 7, SI – 1000 Ljubljana, Slovenia Type of business: legal profession Main activities: advocate

### PUBLICATIONS - Books:

*Einstweiliger Rechtsschutz im Gemeinschaftsprozessrecht: eine Untersuchung der Rechtsprechung des EG/EU-Prozessrechts*, Baden-Baden : Nomos, 2008

*Odločitve Sodišča evropskih skupnosti in Sodišča prve stopnje : s pojasnili*, Ljubljana (*Case law of the EUropean Court of Justice with comments*) : Nebra, 2004 (coauthors: Knez, Rajko, Mužina Aleksij, and Vesel, Tomaž)

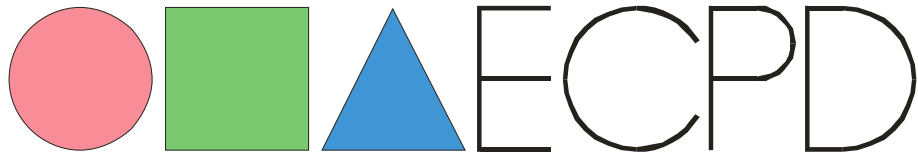
### IP RELATED EXPERIENCE - Community Trade Mark

*Cases and opinions of the Advocate General at the European Court O Justice in which I was involved:*

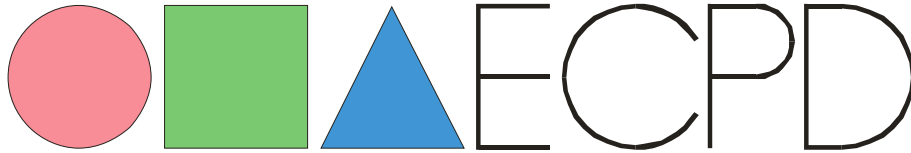
Case C-16/06 P, *Éditions Albert René v. OHIM*, Opinion of the Advovate General

Case T-323/03, *La Baronia de Turis v. OHIM - Baron Philippe de Rothschild (LA BARONNIE)*





Case T-172/04, Telefónica v OHIM - Branch (emergia)  
Case T-366/04, Hensotherm v. OHIM - Hensel (HENSOTHERM)  
Case T-202/04, Madaus v. OHIM - Optima Healthcare (ECHINAID)  
Case T-388/04 Kachakil Amar v OHIM  
Case T-31/04 Eurodrive v OHIM  
Case T-74/04 Nestlé v. OHIM - Quick (QUICKY)  
Case T-202/03Alecansan v. OHIM - CompUSA (COMP USA)  
Case T-169/04 Arysta Lifescience v. OHIM - BASF (CARPOVIRUSINE)  
Case T-396/04 Soffass v. OHIM - Sodipan (NICKY)  
Case T-154/03Biofarma v Ohim - Bausch & Lomb Pharmaceuticals (ALREX)  
Case T-123/04 Cargo Partner v. OHIM (CARGO PARTNER)  
Case T-301/03 Canali Ireland v. OHIM - Canal Jean (CANAL JEAN CO. NEW YORK)



## **STANFORD Martin J.**

### ***Present position***

Principal Research Officer at UNIDROIT (International Institute for Unification of Private Law), Rome.

### ***Education***

Born in 1948, Peterborough, Northamptonshire (the United Kingdom); 1961-1967, King's School, Macclesfield; 1968-1971, University of Manchester LLB. (Hons.); 1972-1973, University of Aix-en-Provence (boursier du Gouvernement français).

### ***Professional career***

UNIDROIT Legal Assistant, September 1971 - October 1972; Research Officer, March 1974 - December 1986; Principal Research Officer, January 1987 to date.

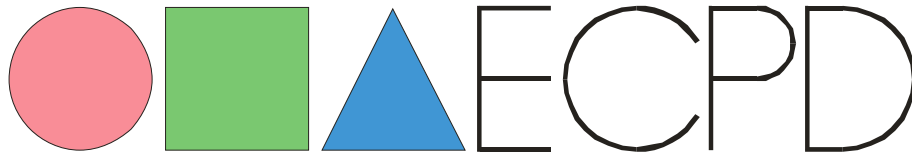
### ***Special responsibilities within UNIDROIT***

Secretary to the Study Group for the preparation of uniform rules on the leasing contract, 1977–1984; Secretary to the Final Clauses Committee and the Credentials Committee, Diplomatic Conference for the Adoption of the UNIDROIT Draft Convention on Agency in the International Sale of Goods (Geneva, January/February 1983); Secretary to the Committee of Governmental Experts for the preparation of a draft Convention on international financial leasing, 1985–1987; Executive Secretary to the Diplomatic Conference for the Adoption of the Draft UNIDROIT Conventions on International Factoring and International Financial Leasing (Ottawa, May 1988); Secretary to the Study Group for the preparation of uniform rules on international interests in mobile equipment, 1993-1997; Secretary to the Final Clauses Committee and the Credentials Committee, Diplomatic Conference for the Adoption of the Draft UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects (Rome, June 1995); Joint Secretary to the Joint Session of the UNIDROIT Committee of governmental experts for the preparation of a draft Convention on International Interests in Mobile Equipment and a draft Protocol thereto on Matters specific to Aircraft Equipment, and the Sub-Committee of the Legal Committee of the International Civil Aviation Organization on the study of international interests in mobile equipment (aircraft equipment), 1999-2000; Executive Secretary to the diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol (Cape Town, October/November 2001).

### ***Publications***

- *Contributions in edited volumes*

*Relazione sulle attività dell'UNIDROIT relative al contratto di leasing*, in Nuovi tipi contrattuali e tecniche di redazione nella pratica commerciale (ed. Pietro VERRUCOLI), Giuffrè, 1978;



*Appunti sulla Documentazione straniera*, in *La locazione finanziaria in Italia e all'estero* (co-editor with Renato CLARIZIA, Massimo LANDI & Emilio PALMA), Nardini, 1984;

*UNIDROIT*, in *The Effect of Treaties in Domestic Law* (ed. Francis G. JACOBS & Shelley ROBERTS), Sweet & Maxwell, 1987;

*From Ottawa to Cape Town: UNIDROIT's Role in the Modernisation of the Law Governing Leasing and the Taking of Security*, in *Security Interests in Mobile Equipment* (ed. Iwan DAVIES), Ashgate, 2002.

- *Recent articles*

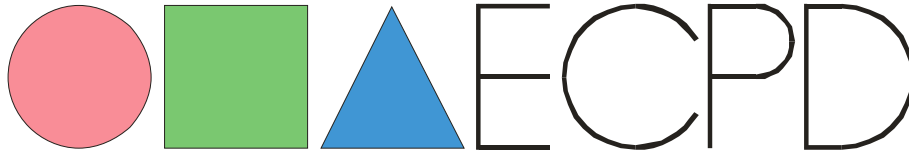
*The UNIDROIT Convention on International Financial Leasing*, *World Leasing Yearbook*, 2000, p. 40 *et seq*;

*Overview of the Current Situation Regarding the Preliminary draft Space Property Protocol and its examination by COPUOS* (with Alexandre de Fontmichel), *Uniform Law Review*, 2001-1, p. 60 *et seq*;

*The UNIDROIT Convention on International Financial Leasing*, *World Leasing Yearbook*, 2001, p. 40 *et seq*;

*The UNIDROIT Convention on International Financial Leasing*, *World Leasing Yearbook*, 2002, p. 52 *et seq*;

*Cape Town Convention on International Interests in Equipment*, *World Leasing Yearbook*, 2003, p. 35 *et seq*.



## **STRAUS Joseph**

### ***Present position***

Professor of Law, Ljubljana and Munich universities; Managing Director of the Max-Planck Institute for Intellectual Property, Competition and Tax Law, Munich; Chairman, Managing Board of the Munich Intellectual Property Law Centre; Marshall B. Coyne Visiting Professor of International and Comparative Law, George Washington University Law School; Honourary Director of the Intellectual Property Institute of the Tongji University, Shanghai; Honourary Professor Tongji University, Shanghai; Distinguished Visiting Professor University of Toronto School of Law.

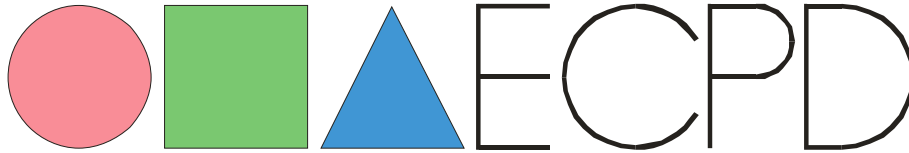
### ***Education***

Born in 1938, Trieste (Italy). Received Law-Diploma in 1962 from University of Ljubljana, Slovenia; 1968, Dr. jur. (SJD) from University in Munich.

### ***Professional career***

Private practise from 1968 to 1977, since then with the Max-Planck Institute; 1986, Nominated Full Professor of Intellectual Property Law, University of Ljubljana; Visiting Professor, Cornell Law School, Ithaca, N.Y. (between 1989 and 1998); Distinguished Visiting Professor, George Washington University School of Law (Spring 2001, 2002 and 2003); Consultant to OECD, WIPO, UNCTAD, UNIDO, EC-Commission, World Bank; Scientific Services of the German Bundestag and the German Government, as well as the European Parliament and the European Patent Organisation; Former President of the International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP); Chair Programme Committee, International Association for the Protection of Industrial Property (AIPPI); Chair of Intellectual Property Rights Committee of the Human Genome Organisation (HUGO); Member of the Standing Advisory Committee before the European Patent Organisation (SACEPO); Advisory Board of the Worldwide Academy of the World Intellectual Property Organisation (WIPO); Standing Committee "Intellectual Property Rights," All European Academies (ALLEA); International Board of Assessors, Intellectual Property Research Center, University of Melbourne; Advisory Council of the McCarthy Institute for Intellectual Property and Technology Law, University of San Francisco School of Law; Executive Council, Center for Advanced Study and Research on Intellectual Property (CASRIP), University of Washington School of Law, Seattle; Arbitrator with the International Court of Arbitration, Paris.

***Membership in academies*** - Member Academia Europe; Member European Academy of Sciences and Arts; Corresponding member of the Slovenian Academy of Science and Art; Katz-Kiley Fellow (1999) of the University of Houston Law Center.



## Van THIEL Servatius

### ***Present position***

Professor in International Tax Law, Free University Brussels; Visiting Professor European Taxation, at ULB Brussels and at Erasmus University Rotterdam, the Netherlands, European Fiscal Studies; 2002, at the PAO of the University of Utrecht, the Netherlands, EYE Tax Academy)

1988 - European Union staff member, first with the European Court of Justice in Luxembourg (1988 - 1990), thereafter with the Council of Ministers in Brussels (from 1990 - 1996 on Eastern Europe, Taxation, Economic and Monetary Union), in the Geneva Liaison Office (from 1996 - 2003 on the World Trade Organisation and a variety of UN organisations), and since 2004 combined in Geneva (Social issues) and Brussels (Head of tax policy unit).

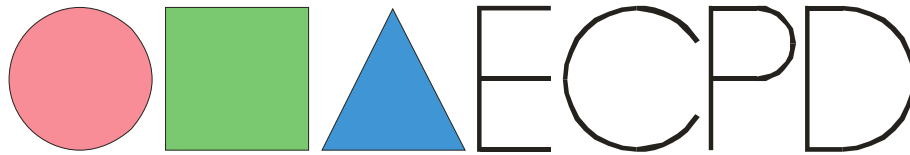
2003 - "Raadsheer-Plaatsvervanger" (Deputy Judge) in the "Gerechtshof 's-Hertogenbosch" (Regional Court of Appeal, Netherlands); Director of the Post Graduate LLM Programme on International Legal Co-operation, Free University Brussels.

### ***Education***

1975-1981, Catholic University Nijmegen, the Netherlands, Faculty of Law and Economic Institute ("Meester in de Rechten", Law degree with major in Economics); 1981-1983, Free University Brussels, Belgium, Faculties of Law and of Economic, Social and Political sciences (Magna Cum Laude LLM degree in International and Comparative Law and Cum Laude MA degree in Economics: Industrial Location and Development); May 2001, Erasmus University Rotterdam, Ph.D. (Doctor) in European Taxation.

### ***Professional career***

1979-1981, Catholic University Nijmegen, the Netherlands, Junior assistant to Prof. P. Mathijssen, European Law Department (10%). 1981-1982, Merck Sharp & Dohme, Brussels (B), Junior Assistant to the head of the Corporate Legal Department (10%). 1982-1983, European Commission, Brussel, Legal Service (Programme de formation), D.G. VIII Development (Trainee and subsequently reporter on incentives for European investment in African mining). 1983, UNCTAD VI, Belgrade, Yugoslavia, Representative of the IBFD. 1985, Research at the UN Center for Transnational Corporations, New York (USA) on tax clauses in primary commodity concession agreements, and Observer 40th UNGA; 1985, United Nations Economic Commission for Africa, Addis Ababa (Ethiopia), Research Consultant on an investment and revenue friendly tax systems in West Africa. 1983-1986, International Bureau of Fiscal Documentation Amsterdam, the Netherlands, Senior research associate, Co-editor African Tax Systems. 1987, consultant based in Amsterdam, research assignments on transfer pricing for the Italian Council for Economics and Labour (C.N.E.L.),



Rome, and on national mining legislation for the UN Centre for Transnational Corporations, New York; 1990-1992, International Bureau of Fiscal Documentation, co-editor International VAT Monitor.

1991-2000, Visiting Professor on: "World Trade Organisation" at Turku University (SFL), Post Graduate International Trade Law Course (from 1992 to 2000) and at the United Nations University of Peace, European Center for Peace and Development in Belgrade (Serbia) in 2004; "European Taxation" at Turku University (SFL) (from 1992 to 2000); "European Tax Law and Policy", at Harvard University International Tax Program, Boston-Cambridge, USA (1997 and 1995); "Business and the Community" at Educational Programs Abroad/European Parliament (from 1992 to 1997); "European Law: the internal market without frontiers" at the University of Georgia Law School, Athens, Georgia, USA (from 1993 to 1995); "Tax obstacles to international business transactions" at the University of Pittsburgh School of Law, USA (1995); "Law and Institutions of the European Communities" and "International Tax Law" at the South Central Institute for Politics and Law, Wuhan, Peoples Republic of China (1991).

Guest lectures: around 75 presentations for wide variety of audiences, including academic: Universities (of) Harvard, Princeton, Georgetown, American U, Georgia, Wake Forest, Kenan Flager Business School, Memphis (in USA), of Brussels, Gent, Antwerpen (in Belgium), of Rotterdam, Amsterdam, Brabant, Utrecht (in the Netherlands), of Turku (in Finland), Hamburg (in Germany), Coventry, Anglia (in the UK), Wuhan (PR China), and Geneva (Switzerland), Vienna (Austria), UN University ECPD (Serbia); professional: American Bar Association (New York), International Bar Association (Paris), International Fiscal Association (Paris), Organisation of Italian, German, Austrian tax consultants (Gardone, Italy), IBFD International Tax Academy (St Petersburg, Russia), Confédération Fiscale Européenne, Arthur Andersen, Coopers and Lybrand, Lefèbvre-Looyens-Rädler, Ernst and Young, Nederlandse Orde van Belastingadviseurs (NOB), Nederlandse Federatie van Belastingadviseurs (FED); public sector: Ministries of Finance of the Netherlands and Denmark.

### **Publications**

- *Books*

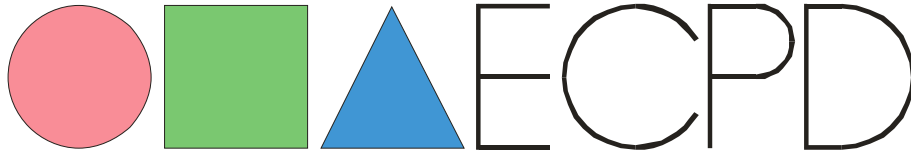
*Free Movement of Persons and Income Tax Law: the European Court in Search of Principles*, International Bureau of Fiscal Documentation, Amsterdam, 2002, p. 745;

*EU case law on income tax*, Part I, International Bureau of Fiscal Documentation Amsterdam, 2001, p 627;

*Tax training in the European Community*, Report submitted to the PHARE operational service (PHOS) of the Commission of the European Communities, Brussels, 1992, p. 103;

*Pays Bas: Guide Juridique, fiscal, social et comptable*, Dossiers internationaux Francis Lefebvre, Paris, 1991, p. 453;

*African Tax Systems: section A - aspects of doing business*, Loose leaf in 4 volumes on forms of doing business, investment regulations, international transactions (section A) and taxation (section B) in African developing countries, published by the International Bureau of Fiscal



Documentation, Amsterdam. Surveys on Botswana, Egypt, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Malawi, Nigeria, Senegal, Sierra Leone, Swaziland, Tanzania, Uganda, Zambia, Zimbabwe, 1984, 1985 and 1986. *Systemes Fiscaux Africains*, idem French language version.

- *Research studies and reports*

*Jurisprudence nationale en matière de droit communautaire: Pays Bas*, Analyse de 357 décisions des juridictions nationales concernant la libre circulation des marchandises, le tarif douanier commun, l'agriculture, la sécurité sociale, les dispositions fiscales et la politique sociale, with H.D. Tebbens and H. Voogscheerd, document of the European Court of Justice, 1989

*Transfer Pricing: a Comparative Overview of the National Regulations of the Federal Republic of Germany, France, Japan, the Netherlands, the United Kingdom and the United States*, Report to the Consiglia Nazionale dell Economia e Lavoro, Roma and to Bocconi University, Milano at the request of the government of the Italian Republic. Published in "Operazioni Internazionali E Fiscalita", edited by Victor Uckmar, Edizione di Sole 24 Ore, Milano, 1987, pp. 281 to 329;

*The Tax Treatment of Investments in West Africa: Towards Regional Cooperation*, Part I p. 40, Part II p. 129, Part III p. 220. Consultancy report to the United Nations Economic Commission for Africa, September 1985;

*EEC Mining Strategy: Objectives and Instruments*, research report for the Commission of the European Communities, Directorate General VIII Development, November 1983;

*International Trade, GATT and Developing Countries*, research paper, p. 40, to obtain LL.M. degree at the Free University of Brussels, May 1982, Dutch abbreviated version published in 31 *Ars Aequi* 7, July/August 1982, p. 341;

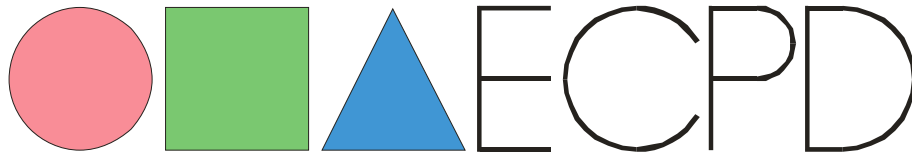
*De eerste Conventie van Lomé als instrument van Europees ontwikkelingsbeleid (The first Lomé Convention: instrument of European development policy)*, research paper, p. 134, to obtain Law degree at the University of Nijmegen, May 1981.

#### Articles

(...)

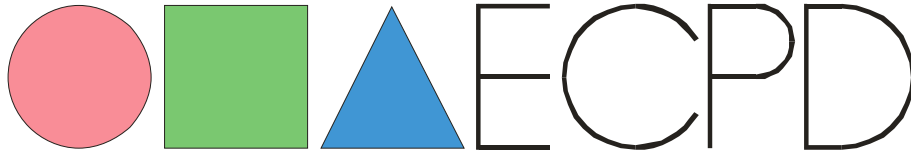
(74) *Removal of Income Tax Barriers to Market Integration: Harmonisation or Litigation?* A summary of the impact of the Court's case law on the features of any future system of income taxation in the European Union, Contribution to the Conference "Towards an Internal Market Without Corporate Tax Frontiers" organised by the European Commission, Brussels, 29-30 April 2002, at [http://europa.eu.int/comm/taxation\\_customs/taxation/company\\_tax/conference\\_contributions/htm](http://europa.eu.int/comm/taxation_customs/taxation/company_tax/conference_contributions/htm);

(75) *Removal of Income Tax Barriers to Market Integration in the European Union: Litigation by the Community citizen instead of harmonisation by the Community legislature?* *EC Tax Review* 2003, pp. 4 to 19;



- (76) *Die Beseitigung ertragsteuerlicher Hindernisse im Binnenmarkt*, Internationales Steuerrecht (IstR) 15 – 16, 2003, pp. 530 – 538 and 553 – 558 (with Charlotte Achilles);
- (77) *Social Dimensions of Globalisation: Public Health Versus Intellectual Property or How WTO Members Without Pharmaceutical Production Capacity Can Use Compulsory Licenses to Address Public Health Emergencies*, published in "Ceci n'est pas un juriste, il est un amie", Liber Amicorum Bart de Schutter, at 321-356, June 2003 VUB University Press; posted at the "Global trade negotiations home page" (under issue areas, intellectual property, papers) of the Center for International Development of Harvard University ([www.cid.harvard.edu/cidtrade](http://www.cid.harvard.edu/cidtrade));
- (78) *Public Health Versus Intellectual Property: WTO Removes Patent Obstacle to Enable Developing Countries to Tackle Public Health Emergencies by Importing Cheap Medicines Produced Under a Compulsory License in Another Country*, published in "Globalisation" at VUB Press Brussels Belgium, September/October 2003.





## WALLACE Don

### *Present position*

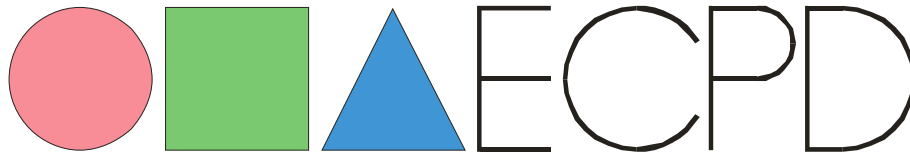
Chairman, International Law Institute and Professor of Law, Georgetown University Law Center; Counsel, Morgan, Lewis & Bockius

### *Education*

1953, BA Yale (high honours); 1957, LLB Harvard (*cum laude*); 1967, Fulbright fellow, Turkey; 1973-74, fellow, St. Antony's College, Oxford; 1976, Eisenhower exchange fellow.

### *Professional career*

Private practice in New York City; Deputy Assistant General Counsel, regional legal adviser Middle East, acting head Private Enterprise; Alliance for Progress, and consultant, AID; chairman, Section of International Law and Practice, and member of House of Delegates, American Bar Association; chairman, advisory committee on Technology and World Trade, Office of Technology Assessment, United States Congress; member, United States Delegation, U.N. Conference on State Succession in Respect of Treaties; member, Research Council, Center for Strategic and International Studies, Georgetown University; member, International Investment Committee, U.S. Chamber of Commerce; member, Board of Trustees, and Secretary, the Media Institute; alternate representative, Committee on Legal Aspects of NIEO, International Law Association; chairman, Ad Hoc Committee on the ALI Restatement of the Foreign Relations Law of the United States, American Bar Association; co-chairman, joint committee with Canadian Bar Association on trade and investment, American Bar Association; chairman, Private International Law Coordinating Committee, Section of International Law and Practice, American Bar Association; member-at-large, Board, Harvard Law School Association, Washington, D.C.; member, visiting committee Harvard Law School (sub-committee on graduate and international programmes); member, Advisory Board, Indonesia Economic Law and Improved Procurement Systems (ELIPS); member, Board of Trustees, Middle East University of Science and Technology, Cairo; legal adviser, State of Qatar; co-director, economic and business law project with Russian (and formerly USSR) Academy of Sciences; visiting professor of law, People's University, Beijing, PRC; on roster of panelists of World Trade Organization (WTO) Dispute Settlement Body; member, Steering Committee for Law, National Association of Scholars; member, Citizens for the Constitution (drafting committee); member, Membership Committee, Cosmos Club; national chairman, Law Professors for Bush and Quayle, 1988, 1992; national co-chairman, Law Professors for Dole and Kemp, 1996.



### ***Courses taught***

Public International Law; International Business and Economic Law; GATT/WTO; International Monetary, Finance and Investment Law; International and Comparative Procurement Law; Infrastructure Projects in Developing and Transition Countries; Investor-State Dispute Settlement; Constitutional Aspects of Foreign Affairs; Conservatism in Law and Politics in America, Property.

### ***Other activities***

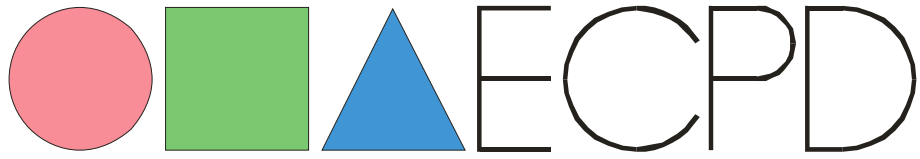
Member, Legal Advisory Committee, National Legal Center for the Public Interest; member, Secretary of State's Advisory Committee on Private International Law; chief United States delegate to UNCITRAL on industrial works contracts, procurement law and BOT/privately financed infrastructure projects; vice-president, Shaybani Society of International Law; arbitrator; member panel of arbitrators of Cairo Regional Center for International Commercial Arbitration; member, Board of Directors, Institute of Investment and Arbitration, Cairo; member, American Law Institute; member, Board of Governors, Republican National Lawyers Association; member, Board of Directors, Bulgarian American Society; member, advisory board, Central and Eastern European Law Initiative (CEELI); member, Board of Directors, Azerbaijan-American Educational, Cultural and Economic Center; emeritus member, Board of Directors, International Development Law Institute, Rome; member, Board of Directors, International Law Students Association; member, advisory committee, ABA/UNDP International Legal Resource Center; member, executive committee, UNCITRAL foundation; liaison of Section of International Law and Practice, American Bar Association to UNCITRAL; correspondent, UNIDROIT, and vice-president, Board of Governors, UNIDROIT Foundation, Rome; member, Council, Postgraduate School of Law of the European Union and International Business, and president, consortium on privately financed infrastructure projects, European Center for Peace and Development, UN University for Peace, Belgrade.

### ***Honours***

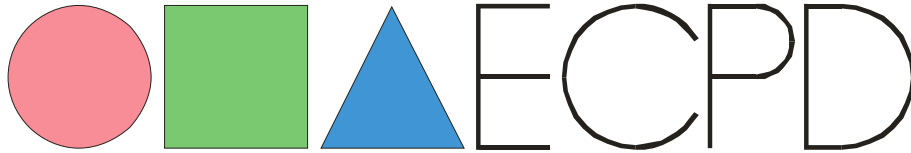
Harry Leroy Jones Award for outstanding achievement in foreign and international law, 1992.

### ***Publications***

*Dear Mr. President: The Needed Turnaround in America's International Economic Affairs;*  
*International Regulation of Multinational Corporations;*  
*International Economics and Business: Law and Policy* (co-author);  
*Regulating Public Procurement: National and International Perspectives;*  
*Transnational Corporations and Legal Issues;*  
*Commentaries on Restatement of the Foreign Relations Law of the United States;*



*Enclosures*



Pursuant to Article 8 of the Statute of the European Center for Peace and Development (ECPD) of the University for Peace established by the United Nations and the Decision of the ECPD Educational and Scientific Council, we hereby establish the following

## **R U L E S**

### **Governing the ECPD International Postgraduate Specialist, Master and M.Sc. Studies**

#### **I General Provisions**

##### **Article 1**

The European Center for Peace and Development (ECPD) of the University for Peace established by the United Nations (hereinafter referred to as: **ECPD**), shall organize **international postgraduate studies** (hereinafter referred to as: **IPS**) within its **International Postgraduate Schools** (hereinafter referred to as: **IPS**).

The ECPD shall organize IPS in accordance with these Rules, its Statute, the Statute of the University for Peace established by the United Nations, the Bologna Declaration and the relevant national legislations, including that of the ECPD host country.

The ECPD may organize IPS in cooperation with universities, faculties, research institutes, international organizations, economic and financial organizations and their associations, governments and the like.

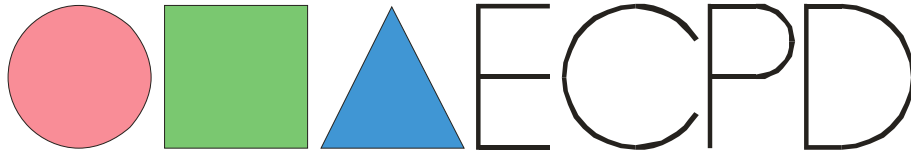
The ECPD IPS shall include:

- Postgraduate training;
- Specialist studies;
- MBA studies;
- Master Studies;
- M.Sc. studies; and
- Doctoral studies.

##### **Article 2**

The **IPS** bodies shall be:

- **The ECPD Educational and Scientific Council** (hereinafter referred to as: the ECPD Council);



- **Educational Councils of ECPD International Postgraduate Schools** (hereinafter referred to as: Main School Councils);
- **Rector of IPS** (hereinafter referred to as: Rector);
- **Deans of IPS** (hereinafter referred to as: Deans of IPS);
- **Director of the MBA School** (hereinafter referred to as: Director); and
- **Commission for Quality Control and Improvement of Studies.**

### **Article 3**

Specialist studies shall last 1 (one) academic year, that is, 2 (two) semesters.

Master studies for the candidates who have completed 4 (four) year higher education shall last 1 (one) year, that is, 2 (two) semesters.

Master studies for the candidates who have completed 3 (three) year higher education shall last 2 (two) years, that is, 4 (four) semesters.

M.Sc. studies for the candidates who have completed 4 (four) year higher education shall last 2 (two) years, that is, 4 (four) semesters.

M.Sc. studies for the candidates who have completed 3 (three) year higher education shall last 2 (two) years, that is, 4 (four) semesters. These candidates are required to pass differential exams, pursuant to the decision of the ECPD Council.

Full-time (F/T) MBA studies shall last 1 (one) year, that is, 2 (two) semesters, and part-time (P/T) studies 2 (two) years, that is, 4 (four) semesters.

The ECPD Council may decide that the teaching within IPS shall be carried out in trimesters.

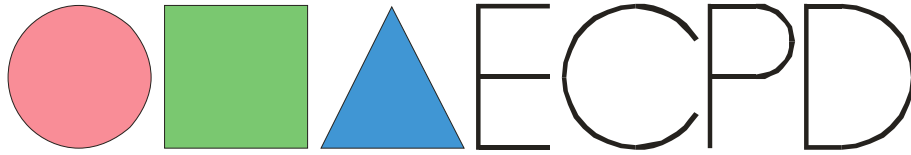
The ECPD Council shall decide on the beginning and duration of a semester/trimester in an academic year.

An academic year shall begin on 1 October of the current year and shall terminate on 30 September of the following year.

## **II Application for and Admission to International Postgraduate Studies**

### **Article 4**

Admission to the first year of IPS shall be carried out (1) on the basis of a public competition announced by the ECPD or (2) under the contract between the ECPD and other legal entities.



Admission to IPS shall be in accordance with these Rules.

A Postgraduate Student with foreign citizenship shall enjoy the privileges in the ECPD host country in accordance with the International Agreement concluded between the state of Yugoslavia and the United Nations University for Peace concerning the ECPD headquarters (*Official Gazette of the SFRY – International Treaties, 9/85*).

#### **Article 5**

A person who applies for admission to Postgraduate Studies shall become an admission candidate (hereinafter referred to as: **Candidate**).

The Candidate shall submit to the ECPD Council the following documents for admission to Postgraduate Studies:

- An application form;<sup>5</sup>
- A certified copy of the university diploma;
- A certified copy of the birth certificate;
- A certified transcript;
- Curriculum vitae;
- Two 4 x 6 cm photos, and
- A copy of the diploma/certificate confirming fluency in one of the official languages of the Organization of United Nations (hereinafter referred to as: **OUN**), if the public competition so requires;
- Recommendation from a university professor is desirable.

#### **Article 6**

The ECPD Council shall appoint the Commission for the Admission of Candidates (hereinafter referred to as: **Commission**), which shall be comprised of 3 (three) members.

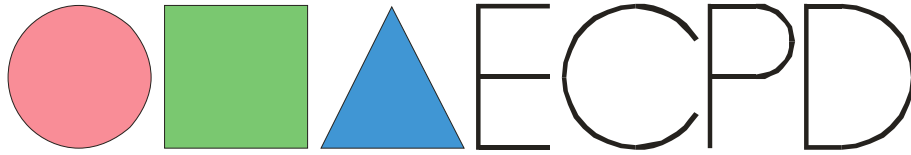
The Candidate shall enable the Commission to have an insight into his/her original university diploma prior to receiving the student's booklet.

#### **Article 7**

A person may be admitted to the first year of specialist studies if he/she has a university diploma.

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<sup>5</sup> The Application for Admission is provided in the Annex.



A person may be admitted to the first year of Master and M.Sc. studies if he/she has an appropriate university diploma and the average grade not lower than 8 (eight), or has completed the relevant specialist studies.

The ECPD Council may also approve the admission of a person with a lower average grade if he/she passes an entrance exam, and to MBA Studies if he/she has his/her own business and five-year working experience.

A person who fails to meet the requirements set forth in the previous section of this Article shall take an entrance exam, as specified by the ECPD Council.

#### **Article 8**

When deciding on the acceptance/admission of a Candidate to Postgraduate Studies within specified schools, the Commission shall take into account:

- University grades;
- References about the Candidate and other data that the Commission may deem important;
- Years of academic and relevant working experience, and
- Fluency in one of the official OUN languages.

The ECPD Council shall decide on the number of students for specified postgraduate studies, taking into account the candidates' academic ability and experience, adequate representation of the genders and profitability of the studies.

#### **Article 9**

Upon admission to Postgraduate Studies, the Candidate shall acquire the status of an ECPD Postgraduate Student (hereinafter referred to as: **Postgraduate Student**).

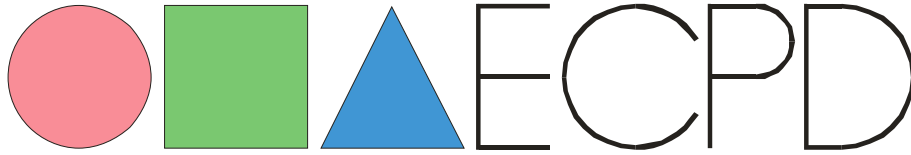
A Postgraduate Student shall receive the student's booklet, whose content and format shall be approved by the ECPD Council.

### **III Rules of Study**

#### **Article 10**

A Postgraduate Student shall be obliged to attend classes regularly.

A Postgraduate Student shall verify a semester/trimester if he/she has the signatures of the subject teachers or the IPS Dean confirming his/her attendance, and has fulfilled all



anticipated obligations, including the financial ones. The decision on the tuition fee for the ECPD international postgraduate specialist, Master, M.Sc. and doctoral studies shall be enclosed and shall form an integral part of these Rules.

#### **Article 11**

The IPS Dean shall assign the teacher to provide assistance and guidance to one or more Postgraduate Students in their academic and research work.

#### **Article 12**

A Postgraduate Student shall pass all exams according to the Curriculum being valid at the beginning of his/her studies, and shall defend his/her specialist paper, Master or M.Sc. thesis, within a period of 2 (two) years for specialist studies, 3 (three) years for Master studies lasting 1 (one) year and 4 (four) years for M.Sc. studies lasting 2 (two) years upon admission.

Should a Postgraduate Student fail to complete his/her postgraduate studies within the time-limits set forth in the previous section of this Article, he/she may appeal to the ECPD Council for the extension of his/her studies.

Should the ECPD Council accept the reasons given by a Postgraduate Student in his/her appeal referred to in the previous section of this Article, it shall set the conditions under which such a Postgraduate Student may continue his/her studies, but not longer than one additional academic year for specialist studies, and two additional years for Master and M.Sc. studies.

A Postgraduate Student shall take exams, submit and defend a (1) specialist paper, (2) Master, or (3) M.Sc. thesis, and shall exercise other rights as a Postgraduate Student in accordance with the first section of this Article.

#### **Article 13**

By verifying the current semester/trimester, a Postgraduate Student shall acquire the right to attend classes during the subsequent semester/trimester of the academic year.

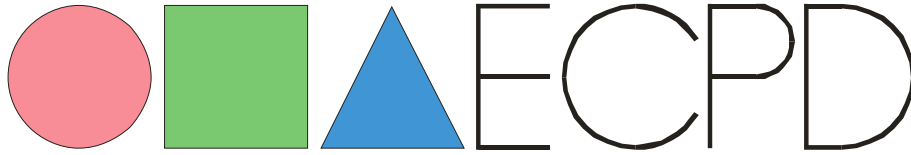
#### **Article 14**

Postgraduate Students shall obtain the timetable during the current month for the next one.

#### **Article 15**

The examination periods within the ECPD international postgraduate, specialist, Master and M.Sc. studies shall be: January, April, June and September.





As an exception, the ECPD Council may introduce an additional examination period at the request of Postgraduate Students.

Postgraduate Students shall timely be informed about the dates of exams on the ECPD notice boards, or in some other way.

#### **Article 16**

A Postgraduate Student shall acquire the right to take an exam in a teaching subject after he/she (1) has fulfilled all obligations specified in the Curriculum and Syllabus, (2) has verified the semester/trimester, and (3) has fulfilled other conditions stipulated by these Rules, including the payment of the appropriate tuition fee.

#### **Article 17**

A Postgraduate Student pursuing Master and M.Sc. studies shall be obliged, during his/her studies, to prepare 6 (six) seminar papers on the teaching subjects specified by the IPS Council, of which three shall be on the basic subjects and three on specialist subjects, based on the field of specialization.

#### **Article 18**

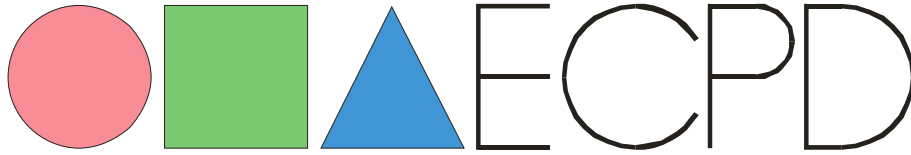
A Postgraduate Student shall take exams in writing. The ECPD Council may determine that a specified exam shall be passed orally, before the examination commission.

The secrecy of the data during the written exams and the grading of seminar papers shall be absolutely guaranteed. All written exams shall be taken by using the Personal Registration Number, which shall be known only to a Postgraduate Student and the Administrator of the ECPD International Postgraduate Studies.

A Postgraduate Student's success at an exam shall be graded from 6 (six) to 10 (ten), while at the same time taking into account the grade of his/her seminar paper and the forms of teaching specified in the curriculum as being compulsory for postgraduate students.

The subject teacher shall enter the grade in a Postgraduate Student's booklet, minutes of the exam procedure and the exam application.

A Postgraduate Student's failure to pass an exam – the grade 5 (five) – shall not be entered in his/her student's booklet.



The subject teacher shall sign the entry of the grade in a Postgraduate Student's booklet, while the minutes of the exam procedure and exam application shall be signed by all members of the Examination Commission.

Pursuant to the decision of the ECPD Council, postgraduate students may also be graded by using ECTS scores, in accordance with the Bologna Declaration.

A Postgraduate Student may appeal to the IPS Dean within 48 hours after the exam, or the grading of the seminar paper, if he/she holds that the exam, or the grading of the seminar paper was not carried out in accordance with these Rules, due to which he/she received the grade with which he/she is not satisfied.

The IPS Dean shall decide on an appeal within 72 hours after the expiry of the time-limit set forth in the previous section of this Article. If his/her decision is positive, the IPS Dean shall appoint the Commission before which the Postgraduate Student shall repeat the exam, within the same time-limit.

The Secretariat of the ECPD International Postgraduate Studies (hereinafter referred to as: **IPS Secretariat**) shall enter the exam grade in the Postgraduate Student's file and the Register of Postgraduate Students.

#### **Article 19**

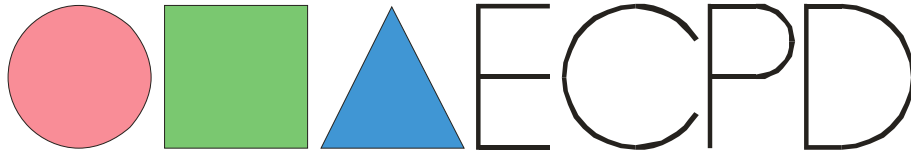
Taking an exam for the first time shall be included in the tuition fee, while each subsequent taking of the same exam shall be paid for to the amount determined by the ECPD Council.

Should a Postgraduate Student fail an exam in a specified teaching subject 3 (three) times, he/she shall take it before the Commission appointed by the Main School Council, at the IPS Dean's proposal, whereby he/she shall pay additional costs for the work of the Commission, as determined by the ECPD Council.

#### **Article 20**

The IPS Dean shall give a general opinion on the Postgraduate Student's work and progress each year, on the basis of (1) his/her grades received at the exams in the teaching subjects; (2) records of the subject teachers concerning the regularity of the Postgraduate Student's attendance; (3) opinion of the subject teachers and mentor, and (4) the Postgraduate Student's accepted seminar papers.

The IPS Dean's assessment, as referred to in the previous section of this Article, shall be descriptive and shall read: excellent, very good, good, satisfactory and dissatisfactory. The



IPS Dean shall submit the assessment to the Secretariat of Postgraduate Studies to be entered in the Postgraduate Student's file.

#### **IV The Curriculum and Syllabi**

##### **Article 21**

The Main School Council shall prepare the Curriculum and Syllabi for its IPS School, and shall submit the proposal to the ECPD Council for adoption.

The Curricula and Syllabi for the same area of study shall be uniform for all centres in which the ECPD carries out of the IPS programmes.

When deciding on and adopting the proposed Curricula and Syllabi, the ECPD Council shall take into account the Bologna Declaration and the relevant international documents.

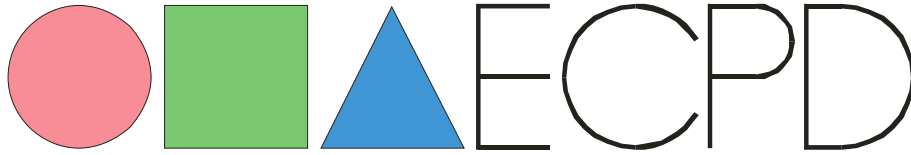
The total number of work hours for a Postgraduate Student at the Postgraduate Specialist level and M.A. studies, in the form of lectures, exercises, seminars, as well as other forms of teachers' direct work with postgraduate students, shall be at least 300 hours, plus up to about 300 hours for the preparation of individual and team projects, research, practical training, postgraduate students' independent work and other forms of teaching, depending on the area of study.

The total number of work hours for a Postgraduate Student at the Postgraduate Master of M.Sc. level, in the form of lectures, exercises, seminars, as well as other forms of teachers' direct work with postgraduate students, shall be 400 hours, depending on the area of study, plus up to 600 hours for the preparation of individual and team projects, research, practical training, postgraduate students' independent work, as well as other forms of teaching, depending on the area of study and for preparations for exams.

##### **Article 22**

The teaching subjects and their timetable by year of study and by semester/trimester, as well as the total number of work hours for each subject shall be specified in the Curriculum.

The content and the number of work hours for specified sections and chapters, as well as the work method shall be specified in the Syllabus.



## **V Teachers and Associates**

### **Article 23**

Teaching within the IPS shall be carried out by ECPD teachers and associates, appointed or elected by the ECPD Council, as well as by visiting teachers.

The ECPD Council shall appoint or, after an open competition, elect the teachers and associates for the appropriate academic posts.

The ECPD Council shall appoint subject teachers and associates for all teaching subjects.

Teachers and associates shall conclude the contracts with the ECPD stipulating their mutual rights and obligations.

## **VI Specialist Paper, Master or and M.Sc. Thesis**

### **Article 24**

A specialist paper shall be the result of a Postgraduate Student's independent, professional and research work, being largely applicable in character.

The right to defend a special paper shall be exercised by a Postgraduate Student who has passed all exams specified in the curriculum for specialist studies and has applied for and has written a specialist paper, which has been positively assessed by the Assessment Commission and the Report on the Positive Assessment has been accepted by the ECPD Council.

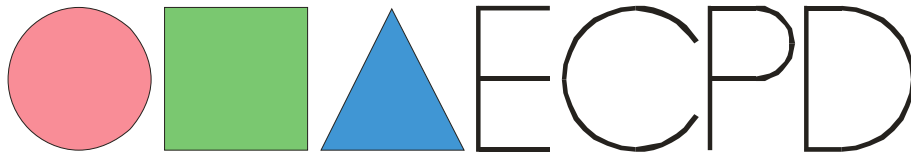
Should he/she defend his/her specialist paper, a Postgraduate Student shall acquire the academic title of a specialist in a specified area.

### **Article 25**

A Master thesis shall be the result of a Postgraduate Student's independent research. Completed international Master studies, including a Master thesis are earning 60 ECTS.

A M.Sc. thesis shall be the result of a Postgraduate Student's independent research. Completed international M.Sc. studies, including a M.Sc. thesis are earning 120 ECTS.

The right to defend a Master or M.Sc. thesis shall be exercised by a Postgraduate Student who has passed all exams specified in the curriculum for Master or M.Sc. studies, and has applied for and has written a Master or M.Sc. thesis, which has been positively assessed by



the Assessment Commission and the Report on the Positive Assessment has been accepted by the ECPD Council.

The topic selected by a Postgraduate Student for his/her Master and M.Sc. thesis shall not be identical to the topic of his/her specialist paper, or other scientific paper done in the form of a monograph, which has been published, or made available to the public in some other way.

Should a Postgraduate Student defend his/her Master or thesis, he/she shall acquire the title of a Master in a specified area.

Should a Postgraduate Student defend his/her M.Sc. thesis, he/she shall acquire the title of a Master of Science in a specified area.

### **(1) The Application for the Topic of Specialist Paper, Master or M.Sc. Thesis and the Appointment of the Topic Acceptance Commission**

#### **Article 26**

A Postgraduate Student who enrolls in the last semester/trimester of Postgraduate Studies shall apply for a topic for his/her specialist paper Master or M.Sc. thesis (hereinafter referred to as: **Application for the Topic**) to the ECPD Council, in accordance with the Guidelines for the Application for and Acceptance of the Topic, and the Preparation, Evaluation and Defence of a Specialist Paper, Master or M.Sc. Thesis and Doctoral Dissertation (hereinafter referred to as: **Guidelines**).\*

The Main School Council shall propose and the ECPD Council shall decide on the appointment of the Topic Acceptance Commission, taking into account its area of science, within a period of 3 (three) days.

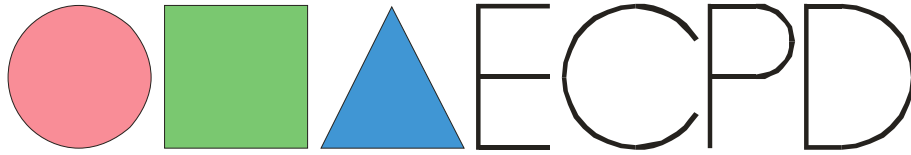
The Topic Acceptance Commission shall, within a period of 30 days upon appointment, submit its Report to the ECPD Council. The Chairman of the Commission shall organize the work of the Commission in such a way that it can submit its Report within the set time-limit.

### **(2) The Adoption of the Report of the Commission for the Acceptance of the Topic of a Specialist Paper, Master or M.Sc. Thesis, and the Appointment of the Mentor and the Commission for the Assessment of a Specialist Paper or Master or M.Sc. Thesis**

#### **Article 27**

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\* The Guidelines form part of these Rules and are enclosed with them.



The Main School Council shall propose and the ECPD Council shall decide on the acceptance of a topic and the appointment of the Mentor and the Commission for the Assessment of a Specialist Paper, Master or M.Sc. Thesis, which shall be, as a rule, comprised of 3 (three) members.

The ECPD Council's Decision on the acceptance of a topic and the appointment of the Mentor and the Commission for the Assessment of a Specialist Paper, Master or M.Sc. Thesis shall be submitted by the Secretariat of Postgraduate Studies to the Candidate, the mentor and the Assessment Commission within a period of 7 (seven) days upon decision making, and one copy of the Decision shall be placed in the Candidate's file.

#### **Article 28**

The ECPD Council shall ensure that, as a rule, one teacher is not the mentor to more than three postgraduate students enrolled in the IPS in the same academic year.

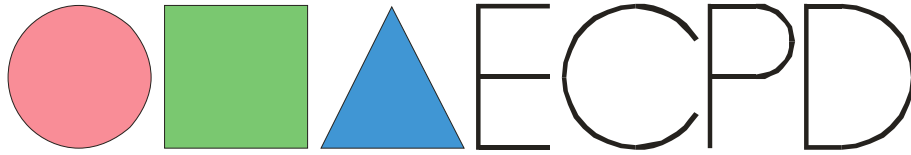
The Mentor shall be obliged:

- To supervise and guide the Postgraduate Student's research;
- To enable the Postgraduate Student to have necessary consultations during his/her work, including specifically communications with other members of the Assessment Commission, who shall submit their proposals and comments on the working version of the paper, that is, thesis;
- To enable the Postgraduate Student to master the research procedures and the subject of his/her research in an adequate way;
- To ensure that the Postgraduate Student observes the provisions of these Rules concerning the originality of his/her research; and
- To make a written proposal for the Report of the Commission for the Assessment of Specialist Paper, Master or M.Sc. Thesis upon completion of his/her specialist paper or M.A. of M.Sc. thesis, in agreement with the members of the Commission.

#### **(3) The Adoption of the Report of the Commission for the Assessment of Specialist Paper, Master or M.Sc. Thesis and the Appointment of the Commission for the Defence of Specialist Paper or Master or M.Sc. Thesis**

#### **Article 29**

The Mentor shall organize the work of the Commission in such a way that it shall be able to submit the Report to the ECPD Council within the set time-limit.



The Assessment Commission shall submit its Report to the ECPD Council within 45 (forty five) days upon completion of specialist paper, that is, Master or M.Sc. thesis, about which the Mentor shall inform the President of the ECPD Council in writing.

A specialist paper, Master or M.Sc. thesis shall be made available to the public at the ECPD headquarters 15 (fifteen) days prior to its defence, including the Assessment Commission's Report and the Candidate's CV, written in the language of the host country or in English, about which the Secretariat of Postgraduate Studies shall inform the public by placing an advertisement in one newspaper.

### **Article 30**

At the proposal of the Main School Council, the ECPD Council shall bring a decision on the acceptance of the Positive Assessment Report and the Appointment of the Commission for the Defence of Specialist Paper, Master or M.Sc. Thesis (hereinafter referred to as: **Defence Commission**), which shall be comprised of 3 (three) members, within a period of 30 (thirty) days upon receipt of the Report.

After the positive assessment of his/her Specialist paper, Master or M.Sc. thesis, the Candidate shall be obliged to submit 10 (ten) copies of the bound specialist paper or Master or M.Sc. thesis, as well as in an electronic form, to the IPS Secretariat 30 (thirty) days before the defence.

The date, place and time for the defence of Specialist paper, Master or M.Sc. thesis shall be determined by the Rector. They shall be announced on the ECPD notice board 8 (eight) days before the defence.

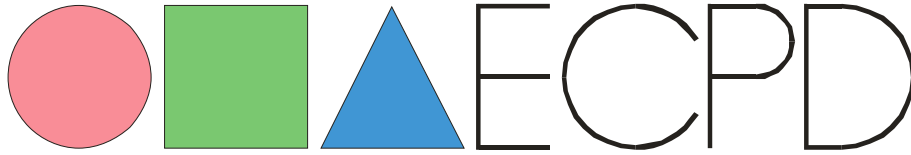
The ECPD shall publish the date of the defence of Specialist paper, Master or M.Sc. thesis in one daily newspaper 8 (eight) days before the defence.

### **Article 31**

The defence of a Specialist paper, Master or M.Sc. thesis shall be a public act.

The defence of a specialist paper, Master or M.Sc. thesis shall be carried out in accordance with the Protocol for the Public Defence of Specialist Paper, Master or M.Sc. Thesis, which is enclosed with these Rules.

The defence procedure shall begin with the announcement of the ECPD Council's decision to accept the Commission's Report on the Positive Assessment of a Specialist Paper, Master or M.Sc. Thesis, the Decision on the Appointment of the Defence Commission, and the Postgraduate Student's CV and bibliography.



During the Defence of a Specialist Paper, Master or M.Sc. Thesis, the Defence Commission shall assess the Postgraduate Student's independence in writing his/her specialist paper, that is, the originality of his/her Master or M.Sc. thesis, grounds for his/her presentation and the value of his/her specialist, that is, scientific conclusions, as well as his/her answers to the questions posed by the members of the Commission.

### **Article 32**

The Defence Commission shall decide by a majority of votes of its members.

The Decision of the Defence Commission shall read: "defended" or "not defended", "unanimously" or "by a majority of votes".

The Defence of a Specialist Paper, Master or M.Sc. Thesis shall be recorded in the minutes.

The minutes of the Defence shall be signed by all members of the Defence Commission and the Chairman of the Defence Commission shall submit them to the Secretariat of Postgraduate Studies.

The minutes shall be permanently kept in the IPS files, and shall be placed in the Postgraduate Student's file.

### **Article 33**

If a Postgraduate Student fails to undertake the Defence, although he/she has been properly called, and if he/she fails to justify his/her absence on time, the Defence Commission shall state that he/she "failed to undertake the defence".

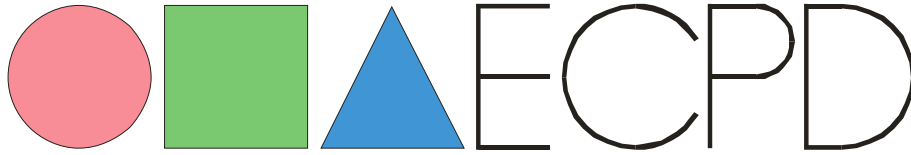
If a Postgraduate Student justifies his/her absence within 7 (seven) days upon termination of the circumstances that prevented him/her from undertaking the Defence, he/she may apply in writing to the Rector, within 6 (six) months from the date of the scheduled Defence, that he/she sets the new date, place and time for this procedure, whereby he/she shall bear the Defence costs.

If any member of the Defence Commission fails to attend the Defence, the procedure shall be postponed and the Rector shall decide on the new date and place of the Defence.

If the Defence Commission cannot meet in its original composition for justified reasons, the Rector shall notify the ECPD Council thereof, which shall bring the appropriate decision.

### **Article 34**





Should a Postgraduate Student fail to defend his/her Specialist Paper, Master or M.Sc. Thesis, he/she may apply for a new topic, subject to the approval of the ECPD Council.

Should a Postgraduate Student fail to defend another Specialist Paper, Master or M.Sc. Thesis, he/she shall forfeit the right to acquire the appropriate academic title at the ECPD.

#### **Article 35**

Should it be established, in any scientifically verifiable way, that the defended Specialist Paper, Master or M.Sc. Thesis is not the result of the Postgraduate Student's original work or, in other words, that it has been plagiarized, the ECPD Council may, at the proposal of the previously appointed commission, annul the academic title of specialist, Master in a specified field or Master of Science.

### **VII Quality Control and Improvement of Studies**

#### **Article 36**

The Commission for Quality Control and Improvement of Studies shall investigate the objectivity, balance of the criteria and the standards of grading the subject and final exams, seminar and other postgraduate students' papers by submitting them for verification to the experts chosen from among the teachers at other domestic and foreign academic institutions being at the same level and having the same educational profile.

#### **Article 37**

The Commission shall continuously control the quality of studies and shall take care of their improvement.

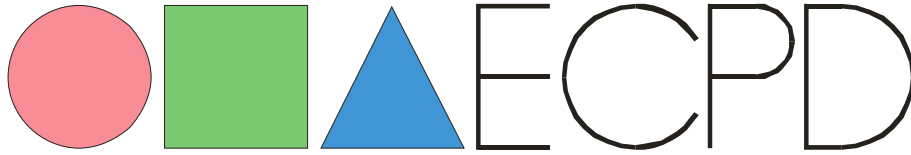
The Commission shall draw up a report on the quality of studies by making inquiries and, in particular, by interviewing postgraduate students about the quality of their studies.

The Commission shall submit its report with the quality assessment of studies and proposed measures for their improvement to the Rector, the School Dean, the Main School Council and the ECPD Council, as well as to the ECPD Executive Director at least once a year.

### **VIII Support to Postgraduate Students**

#### **Article 38**

In order to further the success of the studies and that of their Postgraduate Students, the Deans of Postgraduate Schools shall be obliged to provide to postgraduate students systemic and continuous assistance and consultations, as well as academic and professional assistance.



The support provided to postgraduate students shall include, among other things, the programme of admission to the Postgraduate Studies and their familiarization with its content and method of work, as well as the provision of information about the studies and syllabi via Postgraduate Studies web sites and e-mail, seminars and consultations with postgraduate students.

## **IX Validation and Equivalence**

### **Article 39**

The ECPD Council shall bring the decision on the validation and equivalence of the diplomas of admission candidates.

The ECPD Council shall appoint the commission, whose opinion shall provide the basis for deciding on validation and equivalence.

The commission's work and the decision-making procedure referred to in the previous section of this Article shall be governed by the admission candidate's national legislation.

## **X Records and Public Documents**

### **Article 40**

The Secretariat of Postgraduate Studies shall keep and preserve:

- The Register of Postgraduate Students;
- The minutes of the examination process and the relevant application forms;
- The records of seminar papers;
- The minutes of the defence of Specialist Paper, Master or M.Sc. Thesis;
- The records of the issued diplomas, and
- Specialist papers and Master and M.Sc. theses.

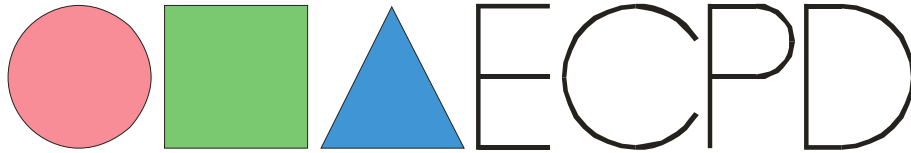
The documents referred to in the previous section of this Article (hereinafter referred to as: **Records**) shall be written in the language of the host country, or in one of the official OUN languages.

The content and format of the application forms, as well as the method of keeping and preserving the Records shall be prescribed by the ECPD Council.

### **Article 41**

On the basis of the data from the Records, the ECPD shall issue the following public documents:

- A student's booklet;



- A diploma of the acquired title of Specialist, Master, Master of Science (hereinafter referred to as: **Diploma**).

The ECPD shall issue the Diploma in English and in the language of the country in which teaching is conducted.

A student's booklet shall be signed by the President of the ECPD Academic Council and the Rector.

A Specialist Diploma shall be signed by the ECPD the Executive Director, President of the ECPD Academic Council, and the Rector.

A Master and M.Sc. Diploma shall be signed by the ECPD Executive Council the President of the ECPD Academic Council, and the Rector.

The Diploma content and format shall be determined by the ECPD Council.

## **XI Transitional and Concluding Provisions**

### **Article 42**

The Rules Governing the ECPD International Postgraduate Specialist, Master and M.Sc. Studies shall come into force 8 (eight) days upon their signing by the ECPD Executive Director, the President of the ECPD Academic Council and the President of the ECPD Educational and Scientific Council.

### **Article 43**

On the day the present Rules come into force, the Rules Governing the ECPD International Postgraduate Specialist and M.A. and M.Sc. Studies, adopted on 22 October 2007, shall cease to be valid.

March 2011

PRESIDENT ECPD EDUCATIONAL AND  
SCIENTIFIC COUNCIL  
(Academician Prof. Dr Branislav Šoškić)

ECPD EXECUTIVE DIRECTOR  
(Prof. Dr Negoslav P. Ostojić)

PRESIDENT  
ECPD COUNCIL  
(H.E. Prof. Dr Takehiro Togo)

The enclosure entitled “Planning a Career” forms part of the experience of the late Prof. Stjepan Han, one of the founders of the ECPD International Postgraduate School of Management. In this way, the ECPD expresses its gratitude to and respect for the endeavors of Professor S. Han, and gives a chance to its users to check their vision of their commitments, affinities and personal priorities.

**Basic Test For  
PLANNING A CAREER**

|   | YES         | NO |
|---|-------------|----|
| 1. I wish to manage my enterprise after acquiring the necessary skills  |             |    |
| 2. In keeping with the results of my work, I wish to earn so much as to be able to ensure a decent life for me and my family  |             |    |
| 3. I am impressed by large, successful enterprises, which have a brilliant image  |             |    |
| 4. I like to associate with my colleagues, at the place of work, as well as outside of it   |             |    |
| 5. I prefer solving clearly defined problems than identifying them by myself, and I do that without the instructions of my superiors  |             |    |
| 6. It gives me pleasure to search for, identify, define and independently solve problems  |             |    |
| 7. I prefer short-term projects whose beginning and end are known   |             |    |
| 8. I prefer long-term strategic tasks   |             |    |
| 9. I wish to take on as many responsible tasks as possible  |             |    |
| 10. In case of need, I will be ready to dismiss one of my associates  |             |    |
| 11. I am especially impressed by people who develop their own projects, although they know that they could go bankrupt  |             |    |
| 12. I think that people should not marry young, but if I have children, I'll do my best to make my marriage a successful one  |             |    |
| 13. The most important thing in my life is my job. I'll marry a person with a strong personality who will take care of the matters I will not be able to, because of my professional duties |             |    |
| 14. I like to work a lot, but I also like to use my free time as much as I can  |             |    |
| 15. I would not accept a job which would not allow my personal development and learning   |             |    |
| 16. I would never work in an enterprise that pollutes the environment, even if I were offered a higher salary or be promoted to a more important position                                   |             |    |
| 17. It would be difficult me to adjust to environment if I cannot be myself   |             |    |
| 18. I like humor and good jokes, but I do not stand the jokes that offend human dignity   |             |    |
| _____ (Place)                      _____ (Date)   | (Signature) |    |