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EU Law, as an Autinonomous Legal System

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Abstract: The legal order created by the European Union (EU) has already become an ingrained component in our political life and society. Every year, based on the Treaties and legal principles of the Union, thousands of decisions are taken that decisively affect the EU Member States and the lives of their citizens. Individuals have long since ceased to be mere citizens of their own state, city, or district; they are also citizens of the Union. For this reason alone, it is extremely important that they be informed about the legal order, which affects their daily lives. However, the complexity of the Union's structure and its legal order are not so easily understood. The step i have taken to study this topic, mainly what is becoming more and more relevant nowadays, has put me in a dilemma, because in our country continues to grow business, namely the conclusion of business contracts between member states of the EU and our state, and with this development the number of disputes will still be higher, so for the faster resolution of issues, we must inform the subjects about the applicability of EU principles, principles in which are systematized in the binding contractual scope. In this paper, I have tried to address the concept of European Union resources, starting with primary, secondary, and third sources that are considered as soft law or non-mandatory resources for EU member states, but which are very important as they now help as a law in the field of contract law, and will help in the coming years to establish the European Civil Code.

Keywords: European law, European Union resources, harmonization of resources.

Introduction

The law is a response to the needs, desires and conflicts in society. Usually the term law is reserved for an answer that involves the formulation of norms, in some way in relation to state bodies, such as legislators or courts, according to which each legal provision must be applicable since in case of non-implementation, that law or that legal provision is supported by the threat of the use of state force. Norms that do not meet such requirements are usually categorized as morality, bylaws, practices, etc., depending on the circumstances. In this way it can be said that the law is a product of the state and society. With the development of human culture in the intellectual aspect as well as the development of social branches such as: trade, economy and industry, the need arises to use international laws. The existence of a non-national law generally known as 'mercatoria lex' has created much controversy since Roman times. Questions about its trunk of existence from its historical belonging to Roman times, the codification of the customs and principles of merchants, the preference of the state law on lex mercatoria and the fact that it is little known by the legal practitioners of this law, mainly the criticism of mercatoria lex is attributed to the unwillingness of legal practitioners to support a law they are not familiar with. In addition to those who are familiar with the general principles of international law or mercatoria lex are trained on the basis of specific schools of thought. Given the benefits that practitioners have gained from enforcing these laws, their use continues to grow. These new principles have been accepted and applied by arbitrators and recognized by the courts through the enforcement of arbitral awards, thus reinforcing the claim that lex mercatoria is now considered an independent or autonomous law.

It is very valuable and perhaps necessary to address some of the basic principles, to assess the basic nature of the contract respectively a legally binding work which can be created by entities of different states, but which can be related through the application of the principles for which the binding laws of all EU member states have been harmonized in order to facilitate entities to perform work more easily and to have a common market Europe.

The following pages are an attempt to clarify the structure of the Principles and the pillars of the European Rule of Law, and thus to help reduce the lack of knowledge on these principles `` Contracting Principles of European Law``

Theoretical Review

H1: Hypothesis one

Given that most European countries want to become part of the organization of the European Union, then it is necessary to be familiar with the Laws of the European Union.

What Primary Resources are used in the organization of the European Union?

So to get more acquainted with the primary sources of the EU, we talk in more detail in the content of the paper!

Answer to the hypothesis raised

The legal order created by the European Union (EU) has already become an ingrained component in our political life and society. Every year, under the Treaties of the Union, thousands of decisions are taken that decisively affect the EU Member States and the lives of their citizens. Individuals have long since ceased to be mere citizens of their own state, city, or district; they are also citizens of the Union. For this reason alone, it is extremely important that they be informed about the legal order, which affects their

daily lives. However, the complexity of the Union's structure and its legal order are not so easily understood. This is partly due to the language of the Treaties themselves, which is often somewhat vague, with allusions not easily understood. An additional factor is the ignorance of the many concepts with which the Treaties try to take over the situation. [1] Specifically, avoiding non-recognition of EU laws will be beneficial for the state of Kosovo, for the citizens of the state of Kosovo who must be up to date with the EU legal system, since in the near future the state of Kosovo will be a member state of the EU, so it is necessary to get acquainted with EU laws, such as those laws which are mandatory and those that are formulated 'harmonized' as soft laws or not binding on the EU.

The foundations of a united Europe were based on ideas and fundamental values, which have been accepted by the Member States and which have been turned into practical reality by the Community's operational institutions. These are lasting peace, unity, equality, freedom, solidarity and security. [2] The accepted goals of the EU are the protection of the principles of freedom, democracy and the rule of law, which are shared by all Member States, and the protection of fundamental and human rights. These values should be the goal of countries that want to join the EU in the future. In addition, penalties may be imposed in any Member State which commits a serious and persistent breach of these values and principles. [3]

If the Heads of State and Government, acting on the proposal of one-third of the Member States or of the Commission - and after obtaining the consent of the European Parliament, declare that there has been a serious and persistent violation of fundamental values and principles of the EU - The Council - by a qualified majority - may suspend certain rights arising from the implementation of the EU Treaty and the Treaty on the Functioning of the European Union in the Member State concerned, including voting rights in the Council. On the other hand, under the Treaties, obligations on the Member State in question continue to be binding. Special attention is paid to the effect on the rights and obligations of citizens and enterprises. [4] There is no greater motivation for European unification than the desire for peace. In the last century, two world wars left consequences in Europe, between countries that are now Member States of the European Union. Thus, the policy for Europe also means a policy for peace, and the establishment of the EU at the same time created the essence of the framework for peace in Europe, which makes war between the Member States impossible. Proof of this are fifty years of peace in Europe. The more European countries join the EU, the stronger this peace framework will be. The last two EU enlargements, including the 12 Eastern and Central European countries, have made a major contribution in this regard. [5]

I. Acts of primary law

The first source of Union law is the founding Treaties of the EU, with the various annexes and protocols attached, as well as subsequent amendments. [6] These Founding Treaties and the instruments that amend or supplement them (mainly the Treaties of Maastricht, Amsterdam, Nice and Lisbon) [7] and the various Accession Treaties contain the basic provisions on the objectives of the EU, its organization and *modus operandi* (mode of operation).), as well as parts of EU economic law. These constitute the founding framework for the functioning of the EU, and are then reflected in the interests of the Union, through legislative and administrative activities by the Union institutions. Treaties, being legal instruments created directly by the Member States, are recognized in legal circles as the primary right of the Union. [8]

II. Secondary law acts

The 'secondary' source of Union law is the laws created by the instruments of the Union, through the exercise of the powers transferred to them, is called secondary legislation - the second most important source of EU law. This law contains legislative acts, delegated acts, implementing acts and other acts. [9] 'Legislative acts' are legal acts adopted by regular procedure or special legislative procedure. 'Delegated acts' are non-legislative acts of general application and binding on supplementing or amending certain non-essential elements of a legislative act. They are approved by the Commission; the legislative act should be drafted to explicitly delegate power to the Commission for this purpose. The objectives, content, scope and duration of the delegation of powers are clearly defined in the legislative act in question. This delegation of powers may be revoked by the Council or the European Parliament at any time. A delegated act may enter into force only if it has not been opposed by the European Parliament or the Council, within the period provided for in the legislative act. [10]

Implementing acts are an exception to the principle, according to which all necessary measures for the implementation of binding EU legal acts are taken by the Member States, in accordance with their national provisions. In cases where uniform conditions are needed for the implementation of legally binding EU acts, this is done through appropriate implementing acts, which are usually approved by the Commission, and in special cases, by the Council. However, the European Parliament and the Council shall draw up in time the general rules and principles relating to the control mechanisms of the Member States for the implementation of the powers of the Council. [11]

Finally, there are a number of "other legal acts" which the Union institutions can use to make non-binding measures and declarations, or which regulate the internal functioning of the EU or its institutions, such as agreements or arrangements between institutions or internal rules of operation.

And these non-binding 'principles' declarations are: contractual principles of European law, which can be used by EU member states, but are not considered binding laws until they are integrated into the European Civil Code.

III. Tertiary rights acts (or EU soft law)

All agreements or principles that have been formulated by the relevant Committees are considered, in order to harmonize the legal systems of all EU member states, as well as in the field of Civil Law, specifically Contract Law.

These Principles are considered soft law or soft EU law as they are not obligatory to use, but in case of their use then the national laws can no longer be used, but the issue should start and end with the same principles. [12]

Thus, in general, European Private law appears in two forms: the 'strong' law, which consists of regulations and directives by which member states are required to implement the so-called *acquis communautaire*, and the 'soft' right to the form of the set of 'principles', or rewording of rules that drafters think are, or should be, common to different contract rights within the EU. [13] These are described as 'soft' rights for reasons because they have no legal force; but as we shall see, they may be used in different ways by the contracting parties, judges or arbitrators, and by the legislature. So far these reformulations are academic products without official status, but merely the result of projects addressing the extent to which European contract law has something in common. [14] However, if the European

Commission's plan for a Common Reference Framework (NRP) is implemented, it constitutes a semi-formal instrument of 'soft law'. [15]

Methodology

The research is a process, which has accompanied at the same time the systematization of bibliographic items, in order to finalize this paper. During the research of the object of study, among the methods used we will mention that of analysis and synthesis, which I hope have ensured the achievement of the objectives of this research. The descriptive method is a necessary way of clarifying terms and concepts that differ from legal to practical aspects.

Also, among the methods used are the empirical and comparative methods. Through research and scientific methods, an attempt has been made to highlight the main characteristics and principles of this field of law. The most qualitative methods were used within this paper such as: research, descriptive, interpretive and comparative methods.

At the same time in this paper, the historical method is used, because starting from the analysis of historical progress or evolution we can come to conclude how the principles began to develop from 1982 to 2002 as well as the whole course of time until today where the European Civil Code has not yet been formulated.

Results

The purpose of the content of this paper is to get acquainted with the initiatives in the field of Civil Law, i.e. the Law of Obligations, which are currently used by the member states of the European Union, which will be very important for the state of Kosovo. In the following we will be a member state of the European Union, and we need to know about the legal sources of the EU. The paper attempts to address the concept of contractual relations, to assess the basic nature of the contract business, the principle, especially the voluntary one, which is at the center of this paper, in a profile that is contemporary, practical and simple to 'u understood. The analysis of the principles operating in the field of contract law also finds treatment in this paper: as the principle of trust, where the respective contracting parties, the applicant for the contract and the contractor declare to each other everything that has to do with the purpose of signing of the contract. Treatment of the contractual interest, what are the criteria in concluding a contract, securing the contract, when the insurable interest should exist, treatment of the principle of compensation, as one of the main principles in the field of contract law, where the object of contract for which the contracting parties must always be based on the contractual principles of

European law to fulfil their contractual obligations, in case of non-fulfilment of the obligation according to the foreseen conditions, the compensation of the damage must be paid, in the same financial condition that it had before the loss, but according to the principle "nothing more than the damage suffered".

Discussion

One of the most important achievements of the European Union is that of the single market. Its freedoms are in the right of business and for citizens to move and interact freely in a Union without borders. Sustainability in lowering barriers between EU member states has brought many benefits to citizens. Citizens in their capacity as consumers have enjoyed a good number of economic benefits, such as lower air prices and mobile roaming phone tariffs and the opportunity to access a wider variety of products. Traders have been able to expand their cross-border activities, by importing and exporting goods, providing services

and establishing themselves, abroad. So they take advantage of the economies of scale and greater business opportunities offered by the single market.

Despite this impressive success, barriers between EU member states still remain. Many of these barriers result from differences between national legal systems. Among the barriers to cross-border trade are differences between national contract laws and ignorance of European Union laws.

Concrete case, for example, in economic transactions, which are based on contracts. This is why differences in contract rules on how a contract is entered into or terminated, or how the delivery of a defective product should be regulated, are actions felt in everyday life by both parties: traders and consumers.

For traders, these differences generate additional complexity and costs, especially when they want to export their products and services to some EU member states. For consumers, these differences make it more difficult when they have a store in other countries, especially in another country, especially when shopping online (per Information Technology).

Therefore, the commission has undertaken several initiatives in the field of sales law, insurance contract law and commercial contracts, with the aim of strengthening the single market. And in this case it would be possible to have a single market, in case for all the countries of the European Union there would be general laws, which would be used by all EU member states.

Conclusions and Recommendations

Conclusions

The world has become slower and the need for deeper legal integration is clearer than perhaps ever before. European Principles is an ambitious project with great merit. Most of the suggested solutions are well established. These principles should therefore be disseminated in use, as they are well formulated and make an adequate solution in contractual relations. One way to spread them would be to clarify to make it understandable to students precisely to young lawyers.

Legal principles play an important role in any system of law. The Treaties of the European Union have embraced the concept of "principles of law", mainly as a means of guaranteeing individual and human rights in public and constitutional law. Recently, however, the ECJ has come to recognize as "general principles" private law and the legal norms of contract and values. Moreover, the notion of "principles" has played a key role in the impressive works of unification which aim to promote the harmonization of national laws in Europe, such as the PDEK and the DCFR. CESL, also opens with a special chapter dedicated to the "general principles" of contract law. The article formulated by the European contractual principles invites the reader to think more carefully and critically about the role played by the supposed "principles" of the law in general, and the European development law of the contract in particular, in which defined in the first part of the article.

Berger examines these issues from the perspective of international law - the idea that slowly and gradually referring to such principles, a uniform private law will emerge. The principles can be used by national and international creators (legislators and courts), referred to by the parties to an agreement, built on legal education. This is a process that has already begun to happen. European Contracting Principles as they are considered as Mild Law practically the nature of the rules makes them quite flexible, as they can easily be modified to adapt to new and reflected conditions, so that in the coming days the level of application of these principles, a claim by the founders of these principles, that day by day is beginning to gradually advance throughout European society.

Recommendations

1. First, to create a 'reformulation' of the rights of the Member States of the European Union. The idea is that if all the differences in terminology and concepts are eliminated and one looks at what the different laws actually require when reaching and going through different situations, with and from a 'common trunk' of common principles.
2. The second goal is to create a set of rules for the parties to adapt to cross-border business-to-business contracts within Europe.

Further Study

In addition to the paper in question, together with the professor / co-author of this paper, we will deal with further studies and papers related to the laws of the European Union!

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8. See: Material from the course, "European Private Law", prepared by: Prof. Dr. Hajredin Kuçi. Prishtina, p: 24.
9. Treaty on the Functioning of the European Union (TFEU), Aug 27, 2014, Article. 289. More details: http://publications.europa.eu/resource/cellar/9e8d52e1-2c70-11e6-b497-01aa75ed71a1.0006.03/DOC_1.
10. Treaty on the Functioning of the European Union (TFEU), Aug 27, 2014, Article. 290.
11. Treaty on the Functioning of the European Union (TFEU), Aug 27, 2014, Article. 291
12. The term "soft law" refers to quasi-legal instruments which have no legally binding, or binding force whose strength is somewhat "weaker" than the binding force of traditional law, often in contrast to soft law referred to as "difficult law". Traditionally, the term "soft law" has been associated with international law, although it has recently been transferred to other branches of domestic law. The

term "soft law" is also often used to describe different types of quasi-legal instruments of the European Union: "codes of conduct", "guidelines", "communication", etc. In the field of European Union law, soft law instruments are often used to show how the European Commission intends to use its powers and perform its tasks within its area of competence.

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