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Autonomy In International Contracts

Petra Carey



Autonomy In International Contracts:

Autonomy in International Contracts Peter Edward Nygh,1999 One of the fundamental issues in private international law disputes is to determine which country's law will be used in the case of the parties going to court Peter Nygh discusses and explains this contentious issue *Party Autonomy in International Contracts* Petra Carey,2007 *International Contracts and National Economic Regulation:Dispute Resolution Through International Commercial Arbitration* Mahmood Bagheri,2000-12-06 The growth of national economic regulation and the process of globalisation increasingly expose international transactions to an array of regulations from different jurisdictions These developments often contribute to widespread international contractual failures when parties claim the incompatibility of their contractual obligations with regulatory laws The author challenges conventional means of dispute resolution and argues for an interdisciplinary approach whereby disciplines such as international economic law conflict of laws contract law and economic regulations are functionally united to resolve international and multifaceted regulatory disputes He identifies the normative foundation of contract law as an important determinant in this process contending that contract law is essentially neutral and underpinned by the concept of corrective justice while economic regulations are mainly prompted by distributive justice Applying this corrective distributive justice dichotomy to international contracts the author critically assesses major conflict of laws approaches such as proper law the Rome Convention and governmental interest analysis which could disregard either public interest or private rights The author taking these theories into account proposes an alternative two dimensional interest analysis approach He tests the viability of this approach with reference to arbitral awards and court decisions in various jurisdictions and concludes that it uniquely fits into the structure of international commercial arbitration In adopting this approach arbitrators would take into account both corrective and distributive justice and to the extent that corrective justice prevails would be able to avert a total failure of the contract

The Scope of Autonomy in International Contracts and Its Relation to Economic Regulation and Development Philip J. McConnaughay,2001 , **Arbitration in Complex International Contracts** Joachim Frick,2001-10-24 The technical economic and social development of the last one hundred years has created a new type of long term contract which one may call Complex International Contract Typical examples include complex civil engineering and constructions contracts as well as joint venture shareholders project finance franchising cooperation and management agreements The dispute resolution mechanism which normally deals with such contracts is commercial arbitration which has been deeply affected in recent decades by attempts to improve its capabilities Most importantly there is the trend towards further denationalization of arbitration with respect to the applicable substantive law In this regard a new generation of conflict rules no longer imposes on the arbitrators a particular method to be applied for the purpose of determining the applicable rules of law Moreover arbitration more frequently took on the task of adapting Complex International Contracts to changed circumstances Also special rules have been developed for so called multi party

arbitration and fast track arbitration facilitating efficient dispute resolution The author describes these trends both from a practical as well as a theoretical perspective evaluating not only the advantages but also the risks involved with the new developments in arbitration Relevant issues with respect to the drafting and renegotiation of such contracts are also discussed

Arbitration Clauses in Maritime Contracts Eleni Magklasi, 2024-06-28 Arbitration clauses are sacrosanct in maritime contracts Standard forms of charterparties and bills of lading reflect a desire to trade over the trusted dispute resolution choice of arbitration However when incorporating arbitration clauses disputes and interpretational complexities continue to arise evidencing that the law is not settled yet This book introduces a holistic evaluation of the commercial reasons and the legal principles that permeate the incorporation of arbitration clauses in modern maritime contracts contrasting arbitration with exclusive jurisdiction clauses where appropriate The book presents a modern specialised legal study of incorporation of arbitration clauses into maritime contracts considering recent developments and long established principles of incorporation Offering a thorough research into English European and Chinese law with the objective to assess how the incorporation of arbitration principles crystallises through the years the book will be of interest to researchers legal practitioners and commercial parties

Comparative Contract Law Pier Giuseppe Monateri, 2017-04-28 This comprehensive Handbook offers a thoughtful survey of contract theories issues and cases in order to reassess the field's present vision of contract law It engages a critical search for the fault lines which cross traditions of thought and globalized landscapes Comparative Contract Law is built around four main groups of insights including the genealogies of contractual theoretical thinking the contentious relationship between private governance and normative regulations the competing styles used to stage contract law and the concurring opinions expressed within the domain of other disciplines such as literature and political theory The chapters in the book tease out the tensions between a global context and local frameworks as well as the movable thresholds between canonical expressions and heterodox constructions

Research Methods for Contract Law and Scholarship Yuliya Chernykh, Joshua Karton, 2025-09-10 This is an open access title available under the terms of a CC BY NC ND 4.0 License It is free to read download and share on Elgaronline.com This timely and comprehensive book reveals the multifaceted nature of modern contract law and practice Providing a broad overview of research methods in contemporary contract law it identifies the various modes of inquiry and argumentative techniques in this dynamic field providing theoretical depth and practical tools for legal scholarship Yuliya Chernykh and Joshua Karton bring together a range of specialists in contract law research to address emerging topics within legal scholarship that work well with a combination of methodological approaches

The Politics of Private Transnational Governance by Contract A. Claire Cutler, Thomas Dietz, 2017-03-31 Outsourcing state functions and the limits of existing regulatory regimes Contract as transnational regulatory governance The emergence of a transnational private regime for the regulation of PMSCs

Conclusion Notes References 14 Conclusion Empire through contract A private international law perspective Abstract

Introduction Self constituting regimes Private international law s libertarian view of contract Possible antidotes From the undiscovered DNA of contract law to new global forms of legal pluralism Notes References Index *Contract Interpretation in Investment Treaty Arbitration* Yuliya Chernykh,2022-01-17 Contracts are relevant frequently central for a significant number of investment disputes Yet the way tribunals ascertain their content remains largely underexplored How do tribunals interpret contracts in investment treaty arbitration How should they interpret contracts Does national law have any role to play Contract Interpretation in Investment Treaty Arbitration A Theory of the Incidental Issue addresses these questions The monograph offers a valuable insight into the practice and theory of contract interpretation in investment treaty arbitration By proposing a theoretical frame for seamless integration of contract interpretation into the overall structure of decision making the book contributes to predictability coherence sufficiency and correctness of the tribunals interpretative practices in investment treaty arbitration **The Law of Open Societies** Jürgen Basedow,2015-06-02 This book endeavours to interpret the development of private international law in light of social change Since the end of World War II the socio economic reality of international relations has been characterised by a progressive move from closed to open societies The dominant feature of our time is the opening of borders for individuals goods services capital and data It is reflected in the growing importance of ex ante planning as compared with ex post adjudication of cross border relations between individuals and companies What has ensued is a shift in the forces that shape international relations from states to private actors The book focuses on various forms of private ordering for economic and societal relations and its increasing significance while also analysing the role of the remaining regulatory powers of the states involved These changes stand out more distinctly by virtue of the comparative treatment of the law and the long term perspective employed by the author The text is a revised and updated version of the lectures given by the author during the 2012 summer courses of the Hague Academy of International Law *Internet Jurisdiction and Choice of Law* Faye Fangfei Wang,2010-08-12 The adoption of electronic commercial transactions has facilitated cross border trade and business but the complexity of determining the place of business and other connecting factors in cyberspace has challenged existing private international law This comparison of the rules of internet jurisdiction and choice of law as well as online dispute resolution ODR covers both B2B and B2C contracts in the EU USA and China It highlights the achievement of the Rome I Regulation in the EU evaluates the merits of the Hague Convention on Choice of Court Agreement at the international level and gives an insight into the current developments in CIDIP The in depth research allows for solutions to be proposed relating to the problems of the legal uncertainty of internet conflict of law and the validity and enforceability of ODR agreements and decisions **Party Autonomy in Latin America** María I. Vial Undurraga,King's College London. Department of Law,2010 Party autonomy in international contracts is widely accepted worldwide and said to belong to the common core of the legal systems However it is not statutorily accepted in some Latin American countries due to historical reasons The consolidation of autonomy is needed in these countries since

choice of law clauses are commonly included in international contracts connected to them and national courts vacillate as to upholding these clauses or not. This consolidation will secure the validity of these clauses and eradicate juridical uncertainty about their efficacy. Further, it will help to update perfect and harmonize conflict rules which are now quite diverse and sometimes inadequate to determine the law governing contracts. OAS intended that this consolidation be produced by The Inter American Convention on the Law Applicable to International Contracts Mexico 1994. This Convention however seems to have failed in its objective. It has received only two ratifications and whether there will be more is uncertain due to its restricted scope of application, the need to supplement the Convention with national conflict provisions which do not exist in some countries and its conflict with the legal tradition of some of the countries. The consolidation of autonomy will require harmonising amendment of the domestic rules on contracts of those countries which reject or have no rules on autonomy. This amendment might be fostered by a non binding instrument, a Model Law or a set of General Principles on Choice of Law in International Contracts drafted by an authoritative international organ such as UNCITRAL or the Hague Conference on Private International Law that includes rules on autonomy widely accepted in comparative law but also respectful of the Latin American legal tradition.

The Impact of Investment Treaties on Contracts between Host States and Foreign Investors Jan Ole Voss, 2010-12-10. Foreign investments are usually implemented through contracts between host States and foreign investors. These contracts and international investment treaties represent two different legal instruments that protect foreign direct investment. The co existence of both instruments under international investment law has generated fundamental problems. By scrutinizing and tracing the increasingly divided jurisprudence on central aspects of treaty interpretation and analyzing the conflicting legal concepts applied by arbitral tribunals, this book represents a comprehensive examination of the complex relationship between the two in the field of investment treaty arbitration.

Non-State Rules in International Commercial Law Johanna Hoekstra, 2021-03-15. Through further technological development and increased globalization, conducting business abroad has become easier, especially for Small and Medium Enterprises (SME). However, the legal issues associated with international commerce have not lessened in complexity, including the role of non state rules. The book provides a comprehensive analysis of non state rules in international commercial contracts. Non state rules have legal authority in the national and international sphere, but the key question is how this legal authority can be understood and established. To answer this question, this book examines first what non state rules are and how their legal authority can be measured; it then analyses how non state rules are applied in different scenarios, including as the applicable law as a source of law or to interpret either the law or the contract. Throughout this analysis, three other important questions are also answered: when can non state rules be applied, when are they applied, and how are they applied. The book concludes with a framework and classification that leads to a deeper understanding of the legal authority of non state rules. Providing a transnational perspective on this important topic, this book will appeal to anyone researching international commercial law. It

will also be a valuable resource for arbitrators and anyone working in international commercial litigation **Justifying**

Contract in Europe Martijn Willem Hesselink, 2021 This title uses contemporary political theories to address fundamental questions on European contract law It also places these theories in the context of the current European contract law landscape This book highlights future options for contract law in the EU and how it may need to change Asymmetric Jurisdiction Clauses Brooke Marshall, 2022 **Transaction Planning Using Rules on Jurisdiction and the Recognition and Enforcement of Judgments** Ronald A. Brand, 2014-04-11 Private international law is normally discussed in terms of rules applied in litigation involving parties from more than one State Those same rules are fundamentally important however to those who plan crossborder commercial transactions with a desire to avoid having a dispute arise or at least to place a party in the best position possible if a dispute does arise This makes rules regarding jurisdiction applicable law and the recognition and enforcement of judgments vitally important to contract negotiations It also makes the consideration of transactional interests important when developing new rules of private international law These lectures examine rules of jurisdiction and rules of recognition and enforcement of judgments in the United States and the European Union considering their similarities their differences and how they affect the transaction planning process The Elgar Companion to UNIDROIT Thomas John, Rishi Gulati, Ben Köhler, 2024-04-12 This comprehensive Companion provides a unique overview of UNIDROIT the primary independent organisation coordinating the practice of international private law across its 65 member states As the third in the suite of titles covering the three sisters of uniform private law and private international law it considers UNIDROIT's role in the creation of existing uniform law as well as posing questions about its future in the sector

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