

**Prof. Dr. Tuğrul Ansay, M.C.L., LL.M.**

Prepared for publication by

Dr. Işık Önay

Dr. Cem Veziroğlu

**INTERNATIONAL BUSINESS LAW  
for Beginners  
With Cases, Notes and Questions**

**onikilevha**  


## **TABLE OF CONTENTS**

Preface .....	VII
---------------	-----

### **Chapter 1 Introduction**

I. Prologue.....	2
II. What does “international business law” indicate? .....	8
A. Nation or state? .....	8
B. National, inter-national, trans-national or supra-national business law.....	18
C. International business .....	20
D. How does international business law differ from domestic business law?.....	24
E. Is international business law an independent field of law? .....	28

### **Chapter 2 Actors in International Business**

I. Actors in general .....	31
II. Actors in particular .....	31
A. The State as an actor in international business .....	31
B. Real (natural) persons.....	35
C. Legal (juristic, artificial) persons .....	40
1. In general .....	40
2. Partnerships .....	40
3. Corporations (companies) and other limited companies .....	41
D. Group companies and multinational companies .....	64
E. Joint ventures (JV).....	73

### **Chapter 3**

### **Sources of International Business Law**

I.	General remarks .....	101
II.	Public international (transnational) law as the resource for international business practice.....	104
	A. General principles of public international law .....	104
	B. The role of the United Nations .....	105
III.	Private international law .....	123
	A. In general .....	126
	B. In particular.....	130
	1. Where to find the rules on PIL?.....	130
	2. Applicable law to contracts .....	134
	a. Party autonomy .....	137
	b. Party autonomy, public order, and overriding mandatory rules.....	142
	3. Non-contractual issues (torts) .....	149
	4. Form requirements .....	154
IV.	Officially or privately prepared domestic rules as sources of international business relations.....	156
	A. In general .....	157
	B. Unification and harmonization of the laws of international business.....	157
V.	Comparative law as a source of international business law .....	167
	A. Comparative law at the micro level .....	176
	B. The use of comparative law in practice by judges and practicing lawyers.....	182
VI.	International customary law among merchants ( <i>lex mercatoria</i> ) ....	184
VII.	Secondary sources .....	187
	A. Scholarly publications as sources of international business .....	187
	B. Court decisions .....	188
VIII.	Hierarchy of applicable laws .....	189

## **Chapter 4 Language**

I.	Some general remarks on the significance of language in international business .....	230
II.	Mandatory use of language.....	240
III.	Legal problems caused by acting against the rules on language .....	241
IV.	English as a common language for international businesspeople?..	243

## **Chapter 5 Procedural Law**

I.	International civil procedure .....	251
II.	Actors and courts in the distribution of justice .....	258
	A. Judges and courts .....	258
	B. Scholars.....	265
	C. Practicing lawyers (attorneys).....	266
III.	Jurisdiction.....	276
IV.	In general - courts with jurisdiction over international commercial disputes.....	277
	A. Rules on jurisdiction .....	278
	B. Exclusive jurisdiction, choice of jurisdiction; agreements on jurisdiction (Exclusive vs. alternative jurisdictions) .....	283
	1. Side effects of plurality of jurisdictions .....	284
	2. Choice of jurisdiction agreement .....	285
	3. Forum non conveniens .....	289
	4. Forum shopping .....	291
	5. Factors influencing the parties in making a choice of jurisdiction agreement .....	291
V.	Litigation (Trial).....	295
	A. General remarks .....	296
	B. Some procedural issues effecting the court process (Qualification) .....	311

C. Res judicata and lis alibi pendens .....	314
D. Proof of foreign law .....	317
E. The relationship between the applicable substantive law and jurisdiction of the courts .....	320
F. Enforcement (and Recognition) of foreign court decisions on commercial matters .....	320

## **Chapter 6**

### **Commercial Arbitration**

I. In general: What is commercial arbitration?.....	352
II. Different types of arbitration.....	354
III. Sources.....	355
IV. Form requirements.....	357
V. Third party effect.....	358
VI. Freedom of arbitration and the role of the State .....	359
A. Arbitrability.....	359
B. Arbitration and the State .....	360
VII. Comparison of State courts and international commercial arbitration.....	364
VIII. Enforcement (and recognition) of foreign commercial arbitration awards .....	375
A. When there is an international award? .....	376
B. Conditions for enforcement .....	376