



Application of Mandatory Rules in the Private International Law of Contracts: A Critical Analysis of Approaches in Selected Continental and Common Law ... View to the Development of South African Law

Kerstin Ann-Susann Schäfer

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The application of mandatory rules in private international law of contracts is a controversial topic of growing international concern. Legislatures are increasingly intervening in private contracts in order to protect the economic interests of state, or the interests of vulnerable groups, such as consumers or employees. This thesis addresses two major contexts in which the application of mandatory rules arises, namely the restriction of party autonomy by the application of certain mandatory rules of a law, other than the chosen law, and the application of internationally mandatory rules of the forum, the proper law and, most controversially, of a third country.

Approaches of academic writing, case law, legislature, and treaties in England, Germany and Switzerland are compared and critically analysed. Paying also attention to the legal situation in South Africa, the analysis results to provide guidelines for the application of mandatory rules in private international law of contracts.

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