G. Cordero-Moss


This book reflects almost thirty years of both the practical and academic experience of the author, a professor at the Law Faculty of the University of Oslo with practical background as an international commercial lawyer in Italy, Norway and Russia. The book aspires to provide a concise, but comprehensive, survey and analysis of the variety of legal problems encountered by jurists working with international commercial contracts. An unusual and positive quality of the work is that it does not limit itself to only one of the scholarly disciplines involved, such as substantive contract law, private international law (conflict of laws), civil procedure or arbitration, but rather offers an integral picture of the complex issues faced by legal practitioners. Another welcome feature of the book is that it does not limit itself to any particular jurisdiction but is intended for readers regardless of their national legal background, even though, because of self-evident reasons, the examples used are mostly taken from the most important legal systems, including the law of the European Union.

In addition to a short introduction, short conclusion, bibliography and index, the book is divided into five substantial chapters. Due to the richness of the contents of the various chapters, only a few examples of the issues discussed in the various chapters can be mentioned here.

The first chapter deals with substantive contract law and focuses on matters such as the practice of international contract drafting. The author discusses, *inter alia*, the legal consequences of the notorious fact that international commercial contracts are mostly written in English and use a style adapted to common law, even where the contract is not connected with any English-speaking common law country and will have to be interpreted by jurists with a civil law background. Another interesting fact pointed out by the author is the specialisation of lawyers: the contract drafters who assisted at the contract
negotiations are seldom litigators and rarely see how their contract clauses work in practice, whereas the litigators often lack the understanding of the negotiations and reasoning behind the wording of the contract. The author comments on some of the usual standard contract terms found in international business contracts, such as boilerplate clauses. She also submits that the common practice of drafters to disregard the applicable law is not a symptom of a denial of that law’s applicability but rather the result of a calculated risk evaluation.

Chapter 2 presents the most important non-national sources of law, such as the United Nations Convention on Contracts for the International Sale of Goods (CISG), Principles of International Commercial Contracts (UPICCC), Principles of European Contract Law (PECL), Incoterms, lex mercatoria, trade usages, etc. The author concludes that such “trans-national” law lacks the detail and exhaustiveness necessary for replacing totally national laws.

Chapter 3 discusses the relationship between international contracts and the applicable (governing) national law, in particular the effect of the applicable law on the interpretation of contractual terms. She describes the difference between the common-law and the civil-law principles of contract interpretation and shows how this difference is reflected in the understanding of many of the usual contractual clauses, such as exclusions of liability, liquidated damages or force majeure.

Chapter 4 is devoted to private international law and examines how the applicable national law is ascertained. The prominent role of party autonomy (the power of the parties to choose the applicable law) is highlighted. One of the interesting questions dealt with is whether the fact that a contract has been drafted according to the English style amounts to a tacit choice of English law as the law governing the contract (the author’s answer is negative). The importance of the determination of the competent court for the determination of the applicable law is clarified. The author discusses the relevance of national provisions belonging to legal systems other than the law governing the contract, such as overriding mandatory rules. She also asks which private international law is applicable in international arbitral proceedings, which, in contrast to proceedings in national courts of law, do not have a private international law of their own.

Chapter 5 is the most voluminous chapter and deals with international commercial arbitration, covering numerous matters ranging from a short presentation of the most important bodies active in the field (International Court of Arbitration of the International Chamber of Commerce, London Court of International Arbitration, International Arbitral Centre in Vienna, Arbitration Institute of the Stockholm Chamber of Commerce, etc.) to possible grounds for