

BUSINESS LAW - METHODOLOGICAL AND PRACTICAL ASPECTS

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Abstract:

Knowledge of business law is important, as this process aims to eliminate legal risks or a disadvantageous business as a result of a lack of knowledge of the legal rules which, through the right combination, allow an efficient business to develop. The natural development of trade has gradually made it necessary to draw up regulations governing its operation, and specific rules have been adopted in this area of activity.

Key words: Business law, legal risks, economic law, business partners

JEL classification: K12, K20

Introduction

In the doctrine, from the beginning until the present we noticed that there is not a unanimously recognized definition of business law. This generates different and complex approaches based on the origins of business law which is often identified in the perception of non-professionals with commercial law. There are thus opinions that "les affaires sont les affaires"¹

Before becoming the discipline of study or the distinct branch of law, business law can be identified as a segment of the individual's life, well oriented towards activities that bring benefits, profit. Analyzed from a historical perspective, until they become profitable, these activities responded to the individual's existence needs.

In ancient times, in order to cover their existential needs, people began to exchange the products they had, either produced by their work or obtained from the environment. The exchange, in its primitive version called barter, was the result of the awareness of the idea of property, of the right to dispose freely of some goods. The need for regulations in this area gradually emerged as trade developed.

2. Business law. Concept.

In the opinion of Professor Alfadari Elie², business law, although it is a multidisciplinary discipline, in the content of the study it addresses only general aspects about competition, prices, currency and credit, about business-notions, organization, concentration and treatment of difficulties, and other activities- production, distribution and consumption, consumer protection.

Business law can be considered an economic law³. In this opinion, economic law comprises:

¹ Opinion expressed by the director of the Institute of Economic, Fiscal and Social Law and professor at Dauphine University-Paris, Alfadari Elie, in the volume "Droit des affaires, les cadres généraux", Litec Publishing House, Librairie de la Cour de cassation, 1993

² Idem 1

³ Opinion expressed by Jacquemin A. and Schrans G. in the volume "Le droit économique", PUF, 1970, and by other authors in various journals since 1961, 1967-1980.

1. the legal framework of the economy, in which the regulations related to currency, credit, but also essential aspects related to competition and prices are analyzed;

2. economic operators analyzing “enterprises”⁴ respectively the commercial companies in all the forms known and regulated by the Commercial Code and other special laws;

3. economic objects⁵ (goods and services) - goods in their tangible and intangible form and services;

3. Characteristics of business law

Business law is itself a discipline with extensive applicative valences, so that the practitioner is obliged to go beyond the field of theoretical knowledge and use the law, through interpretation, to make it eligible and, thus, to offer various, relevant and appropriate solutions to the professional.

Business law is a multidisciplinary science that has as object of study the legal norms that regulate the social relations of the enterprise from the moment of its establishment until the moment of its dissolution, respectively the relations that are established between the state, on the one hand, and the trader, on the other but also the relations of private law, which means the application of some provisions of civil law (legal regime of goods, consumer protection), of labor law (employment contract, labor jurisdiction) and, last but not least, of commercial law (professionals, goodwill, commercial contracts, etc.)⁶

Business law, as a branch of law, consists of all the legal rules governing social relations that appear in the business sphere. As a discipline of study, business law is a juridical multidisciplinary that has as object of study all the rules governing business life.

We can define business law, **in a broad sense**, as the totality of economic, banking, financial activities, etc., through which economic exchanges, economic and technical-scientific cooperation are carried out worldwide.

Strictly speaking, business law is defined by the very range of import/ export operations, carried out by natural and/ or legal persons from one state with partners with the same vocation from another state, concerning goods, capital and services.

Business law encompasses (includes) in itself and extends (continues) commercial law, both of which complement each other, but without merging (confusing).

The natural development of trade has gradually made it necessary to draw up regulations governing its operation, and specific rules have been adopted in this area of activity.

Features of business law:

- **business law is not an autonomous law**
 - it does not refer to a particular field, but to the whole activity and economic life;
 - it does not target particular categories of staff, unlike commercial law, but only certain citizens, who have the quality of traders/ businessmen.

⁴ The term used is "enterprise", which in translation means company, business action - according to the French-

⁵ The term used is "objects", according to Alfadari Elie, "Droit des affaires, les cadres generaux", Litec Publishing House, Libraire de la Cour de cassation, 1993, pg. 4

⁶ Cristea S.L, Dreptul afacerilor (Business Law) Universitara Publishing House, București, 2012, pg.22

- **business law is an original, multidisciplinary law**⁷

- allows the incorporation of rules that are difficult to find a place in another traditional discipline, because it regulates elements apparently unrelated to other branches of law, but without which it is not possible to carry out a business activity, because the term business has a wider scope than the term commercial;

- summarizes rules applicable to other branches of law. However, we cannot talk about a mosaic, a juxtaposition of rules, but rather a coherent construction, which allows the understanding of the common relations between institutions on the rules that until now seemed separate;

is a link between law and economics, aware of the concrete problems facing this branch of law, which does not yet have a common approach

- universally recognized, although the field of business is the one that practically unites the economic world with the legal one, a legally regulated economic world that is essential to the functioning of a developed society. (in a simplistic approach, without business nothing would happen, and society could not evolve).

Business-related regulations frequently address the following issues:

- adoption of basic precautionary measures during the execution of contractual obligations (delay of the debtor, taking precautionary measures, guarantees, etc.);

- knowledge of the conditions under which an agreement is a genuine contract, as well as the binding force of negotiations and negotiations prior to the conclusion of a business;

- knowledge of the legal provisions of civil and commercial law regarding the criminal clause, the limitation or non-liability clause, for the contractual obligations assumed by the business partners;

- the need to invoke the exception of public order and fraud, when it appears necessary, if the legal relations of business law are prejudicial to the legal norms of an imperative nature (of public order);

- business implications and circulation of credit securities;

- granting loans and the legal regime of guarantees necessary for credit insurance;

- the consequences of registering receivables in a current account.

Business law is justified to meet the practical needs of business, it is a concrete right in constant motion and transformation, just like trade. At the same time, business law also means resolving any disputes that arise between business partners.

Conclusions

Business law regulates the social relations of the enterprise from the moment of its establishment until the moment of its dissolution (liquidation), the implications of the branches of public law in business, of those that govern the relations established between the State, on the one hand, and the trader, on the other hand (administrative law, fiscal law, criminal law, etc.), revealing state intervention in the economy.

⁷ See references to the relationship between business law and commercial law, pg. 4

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