

Edited by Maarten J. Ellis and Paul M. Storm

BUSINESS LAW IN EUROPE

Legal, tax and labour aspects
of business operations
in the EEC and Switzerland

Kluwer

Business law in Europe

Legal, tax and labour aspects of business operations in the European Community countries and Switzerland

Edited by *Maarten J. Ellis*
and *Paul M. Storm*

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BUSINESS LAW IN EUROPE

Preface

The Association Européenne d'Etudes Juridiques et Fiscales was founded in 1957 to bring together lawyers from each Member State of the European Community who are practising in the field of business law.

The present membership of 55 includes mainly lawyers in private practice, but also in-house counsel with industrial enterprises and banks, as well as the Commission and the Council of the European Community.

The present book has developed from the Association's first publication, *Branches and Subsidiaries in the European Common Market* which in the Sixties was also published in French, German and Dutch. In 1982 *Branches and Subsidiaries* was extended to cover more subjects and more countries, and given the title *Business Law in Europe*. The accession of Spain and Portugal and new legislation necessitated up-dating of the book. Faced with the constant stream of new legislation and case-law in the fields covered by this book the Association decided that the only way to maintain the value of it was to make it a loose-leaf edition.

The second publication under the auspices of the Association is *Product Liability in Europe*, published by Kluwer-Harrap in 1975. This book contained the reports for the first international conference in Europe on that subject held in Amsterdam and organised by the Association.

The third publication, *Security on Movable Property and Receivables in Europe*, also served as a preparation for a conference sponsored by the Association. It was held in London in March 1988. The book was published by ESC Publishing Limited in Oxford.

With this new edition of *Business Law in Europe* the Association continues its endeavours to provide the international legal and business communities with easily accessible, succinct and yet accurate information on issues of practical importance for those who are involved in doing business on a European scale.

Rotterdam, January 1990

Maarten Ellis
Paul M. Storm

Some Terms and Abbreviations

Although we are well aware of the impossibility of adequately translating many legal terms into English we have endeavoured to achieve some uniformity of terminology throughout this book. To this end we have generally followed the terminology of the English versions of official documents of the EC.

The English and Irish authors have of course used their own terms. For an explanation of some terms of European law we refer to the chapter on Some Observations on the Law of the European Communities. A short explanation of some of the other terms may be useful.

- Enterprise = undertaking or business
- Public company is used for the equivalent of *société anonyme* (SA), *Aktiengesellschaft* (AG), *naamloze vennootschap* (NV), *società per azioni* (SpA), *Aktieselskab* (A/S), the English plc, *anonymos etairia* (AE), *sociedade anónima* (SA), *sociedad anónima* (SA)
- Private company is used for the equivalent of *société à responsabilité limitée* (sàrl), *Gesellschaft mit beschränkter Haftung* (GmbH), the Dutch *besloten vennootschap* (BV), the Belgian *société privée à responsabilité limitée* (sprl) or *besloten vennootschap met beperkte aansprakelijkheid* (BVBA), *società a responsabilità limitata* (sarl), *Anpartsselskab* (ApS), *etairia periorismenis efthinis* (EPE), *sociedade por quotas* (SpQ), *sociedad de responsabilidad limitada* (srl or sl)
- Partnership limited by shares is used for the equivalent of *société en commandite par actions* (SCA), *Kommanditgesellschaft auf Aktien* (KGaA), *commanditaire vennootschap op aandelen* (in Belgium), *società in accomandita per azioni*, *Kommandit-Aktieselskab*
- Limited partnership is used for the equivalent of *société en commandite simple*, *Kommanditgesellschaft* (KG), *commanditaire vennootschap* (CV), *società in accomandita semplice*, *Kommanditselskab*, *eterorrythmos etairia* (EE)
- General partnership is used for the equivalent of *société en nom collectif*, *offene Handelsgesellschaft* (OHG), *vennootschap onder firma* (vof), *società in nome collettivo*, *omorythmos etairia* (OE)
- Group of companies – the German *Konzern* (which may include entities other than companies)
- Dominant enterprise – the dominant (controlling) enterprise in a group of companies

- Dependent enterprise – the dependent (controlled) enterprise in a group of companies
- Seat – to some extent the equivalent of the British registered office
- Statutes – the equivalent of British Articles of Association
- Board (of Directors) – when there is a single Board
- Director – member of a single Board
- Managing Board – Board of management, the members are executives
- Member of the Managing Board (not: Managing Director)
- Managing Director – Director of *GmbH*, *sàrl* or *pvba*
- Supervisory Board – *Aufsichtsrat*, *raad van commissarissen*, *conseil de surveillance* (board of non-executive Directors)
- Trade Register – *Registre du commerce*, *Handelsregister*
- Works Council – *Council d'entreprise*, *Betriebsrat*, *ondernemingsraad*

Abbreviations

AE	–	Anonymos etaira
AG	–	Aktiengesellschaft
ApS	–	Anpartsselskab
A/S	–	Aktieselskab
BV	–	besloten vennootschap
BVBA	–	besloten vennootschap met beperkte aansprakelijkheid
CV	–	commanditaire vennootschap
EC	–	European Communities
ECR	–	Official reports of cases before the European Court of Justice
ECU	–	European Currency Unit
EE	–	eterorhythmos etairia
EEC	–	European Economic Community
EP	–	European Parliament
EPE	–	etairia periorismenis efthinis
ESC	–	Economic and Social Committee (of the European Communities)
EUA	–	European Unit of Account
GmbH	–	Gesellschaft mit beschränkter Haftung
KG	–	Kommanditgesellschaft
KGaA	–	Kommanditgesellschaft auf Aktien
K/S	–	Kommanditselskab
Ltd	–	private company
NV	–	naamloze vennootschap
OE	–	omorythmos etairia
OHG	–	offene Handelsgesellschaft

OJ	–	Official Journal of the European Communities
plc	–	public limited company
SA	–	société anonyme, sociedade anónima, sociedad anónima
sarl	–	società a responsabilità limitata
sàrl	–	société à responsabilité limitée
SCA	–	société en commandite par actions
SpA	–	società per azioni
Sprl	–	société de personnes à responsabilité limitée
SpQ	–	sociedade por Quotas
Srl (sl)	–	sociedad de responsabilidad limitada (Spain)
Srl	–	société à responsabilité limitée (Luxembourg)
vof	–	vennootschap onder firma

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