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Interlex transnational training workshop

Hypotheticals

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Hypotheticals



- Hypotheticals were drawn from the caselaw provided by the national rapporteurs during the project.
 - The hypotheticals include reference to legislation and caselaw as well as questions that will be used as a trigger for discussion.
- The scenarios presented in each of the hypotheticals may not entail a “correct” answer, rather they provide for different answers and (hopefully) trigger new questions and doubts that shall improve the level of adaptation of PIL rules to Internet cases at national as well as European level.
- The hypotheticals will be discussed during the presentation of the Prologue system.





Hypothetical 1



- **Factual circumstances**

- **Tizio**, a Russian citizen domiciled in Italy, accesses the website www.alfa-ski.fr.
- The website is managed by **Alpha**, a company based in Germany and specialized in the marketing of Normandy apples, which are highly appreciated by local consumers: the website is in French. However, due to its popularity, the website also offers a home delivery service for all Europe.
- Tizio, after becoming aware of this website thanks to a friend living in Normandy, decides to buy fifty crates of apples for himself and his family.
- A few days after the delivery in Italy, Tizio notes that the apples are altered by a virus that, in addition to having compromised the taste of the apples, has the potential to cause serious health problems.





Hypothetical 1



- **Questions – Level I**

- Tizio consults a lawyer as regards the sue Alpha company.
- You are asked to play the role of the lawyer representing Mr Angelis before the first instance court.
 - Which elements will you take into account in order to identify the court competent for the case?
 - Which legislation on private international law is applicable?
 - Which arguments will you present to justify your claim as regards the law applicable to the case?





Hypothetical 1



- **Questions – level II**

- Alpha presents as counterclaim that in the Terms and conditions of the website a clause specifies that

- “Any dispute arising in relation to the contract will be subject to French law applies and the Court of Paris holds jurisdiction”.

- Is this element able to change your decision/arguments?
 - Which legislation on private international law is applicable in this case?





Hypothetical 1



- **Factual circumstances**

- Mario Rossi, an Italian entrepreneur resident in Milan, is unfairly accused of money laundering by Dimitri Fakis, a Greek competitor resident in Belgium.
- The criminal trial is held in Milan and ends with Rossi's acquittal in 2008. A few years later, Dimitri Fakis releases an interview to the popular German online newspaper www.allnews.de, owned by the German company Germanews, in which he repeats the accusations against Rossi. Afterwards, a second criminal trial, at the end of which, in June 2017, Fakis is convicted for defamation, and Germanews is ordered to remove the interview from the website.
- In December 2019, the Spanish company Beta, an important client of Rossi, decides to interrupt the contractual relationship: it is also aware of interview given by Fakis on the website www.allnews.de.
- A few days later, the Portuguese bank Saudade informs Rossi of its decision to close his account at its Lisbon branch. The bank also claims to have made this decision after reading the Fakis interview in which Rossi was accused of money laundering.





Hypothetical 2



• Questions – Level I

- The Italian entrepreneur decides then to take legal action against www.allnews.de to claim damages resulting from the defamatory news published online by Germanews. He consults a lawyer as regards the opportunity to present his claim.
- You are asked to play the role of the lawyer representing Mr Rossi before the first instance court.
 - Which elements will you take into account in order to identify the court competent for the case?
 - Which legislation on private international law is applicable?
 - Which arguments will you present to justify your claim as regards the law applicable to the case?





Hypothetical 2



- **Questions – level II**

- Mr Rossi presents a claim before your court claiming his rights.

- Which elements will you take into account in order to identify the court competent for the case?
- Which legislation on private international law is applicable?
- Which elements will you analyse in order to support your reasoning as regards the law applicable to the case?

