

CONTRATS CIVILS ET COMMERCIAUX

TITRE 1 : LES REGLES GENERALES DU DROIT DES CONTRATS CIVILS ET COMMERCIAUX

CHAPITRE 1 : LES DIFFERENTES CLASSIFICATIONS DES CONTRATS

Section 1 : Généralité

Paragraphe 1 : Définition

Un contrat est civil lorsqu'il constitue un acte civil et commercial lorsqu'il constitue un acte commercial.

Un même type de contrat peut donc être tantôt civil tantôt commercial. Ainsi, la vente de produits faite par un agriculteur à un consommateur est purement civil au contraire celle faite par un épicier en gros à épicier détaillant est purement commerciale.

Paragraphe 2 : Sources des règles applicables aux contrats commerciaux

En principe, les règles applicables aux contrats commerciaux sont celles du droit commun des contrats contenues dans le code civil.

1- L'évolution

- L'intervention de l'Etat dans l'économie

Elle limite de plus en plus la liberté contractuelle. Certaines activités sont monopolisées par des services publics industriels et commerciaux et par suite aux entreprises privées. Même dans le secteur privé, la liberté de conclure les contrats subit des attentes de plus en plus profondes soit pour protéger l'une des parties contre l'autre soit dans un but d'économie dirigée.

- L'intervention des organismes professionnels

Elle se traduit par des contrats collectifs qui s'imposent aux membres de la profession et limitent leur liberté contractuelle. Tel est le cas des conventions collectives de travail conclues entre syndicats patronaux et ouvriers auxquelles doivent se conformer les contrats individuels de travail.

2- Le développement des relations internationales

Il conduit à une certaine unification internationale du droit des contrats commerciaux. Des conventions internationales ont été signées pour soumettre à un droit unique les transports internationaux par mer, par air ou par route. Une convention a été signée pour soumettre à une loi uniforme les ventes internationales de marchandises.

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David Kirk



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