Disparities in European Law

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Outline

- Maxims European Commission

- Independent 'rating agencies'

- Relevant benchmarks

- Benchmark results

- Position of European Commission

- Conclusions

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Two maxims European Commission

- In the EU European law shall apply

- Courts in the EU practice European law

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Two 'rating agencies'

- World Economic Forum

  - *Global Competitiveness Report 2014*
    144 countries

- World Bank - IBRD

  - *Doing Business Report 2014*
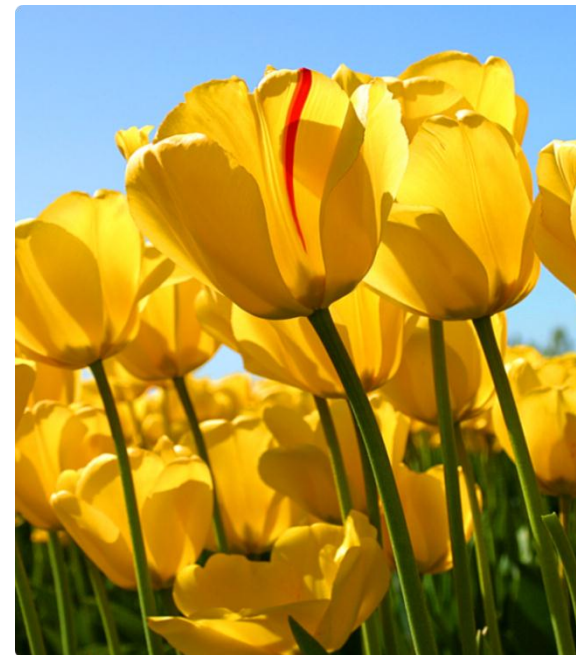   **189 countries**

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What are relevant benchmarks?

Relevant is what is relevant for business operators - investors

- Judicial independence (GCR)
- Enforcing contracts through the courts (DB)
- Registering property (DB)

- Transparency of government policy making (GCR)
- Favouritism in decisions of government officials (GCR)

- Ease of doing business (DB)

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Benchmarks for EU - I

	Best score	Worst score	Country range
Judicial independence	2	130	2 – 130 / 144
Enforcing contracts	1	122	1 – 122 / 189
Registering property	6	180	6 – 180 / 189

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Benchmarks for EU - II

	Best score	Worst score	Country range
Favouritism in decisions of government officials	4	141	4 – 141 / 144
Transparency in government policy making	3	128	3 – 128 / 144
Ease of doing business	5	103	5 – 103 / 189

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Position European Commission (EC)

- In the internal market: prosecutor and judge of first instance

- Political considerations play an important and recognized role in infringement procedures

    - and what about the rule of law?

- EC allows all sorts of arbitration mechanisms (incl. Solvit – explicitly set up to avoid lengthy legal procedures)

- Yet investor-state dispute settlement moot point

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Conclusions

- Wide disparities in European law!

- No common European legal area

- European Union = legal patchwork Europe

- Should every investor – state dispute be brought forward to Luxembourg?

- No way! Hence the need for effective investor – state dispute settlement

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