

# VC in France, Germany & Italy

## Persistence and Fading of a US Contracting Model

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Has the law helped this success?  
or  
Success in spite of the law?

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# A. Research Objectives

- I. Analyse and compare VC contracting practices in France, Germany and Italy
- II. Within Europe analysis: Identify similarities and differences and explain them
- III. Transatlantic analysis: Compare EU VC practices with US VC practices (benchmark)

# A. Research Objectives

## I. Analyse and compare CV contracting practices in France, Germany and Italy

- Terms of standard investment contracts
- Mandatory / legal frameworks: contract law & corporate law
- Legal culture
- Role of opinio juris
- Economic analysis of law
- Behavioural analysis of law

= focus on contractual practice

# **A. Research Objectives**

- I. Analyse and compare CV contracting practices in France, Germany and Italy**
- II. Within Europe analysis: Identify and analyze similarities and differences**



	2018	2019	2020	2021
<b>France</b>	1.751,675	2.164,944	2.326,896	3.577,843
<b>Germany</b>	1.772,349	2.379,673	2.218,848	4.691,641
<b>Italy</b>	221,059	261,115	386,278	426.715
<b>Spain</b>	632,088	655,183	918,383	1.576,393
<b>United States</b>	137.856,936	135.648,691	* Data not provided	*Data not provided

*Size of VC investments in largest EU countries by GDP in USD, millions (US volumes employed as a benchmark). Data retrieved from OECD.Stat on 04/03/2023.*

# A. Research Objectives

- I. **Analyse and compare CV contracting practices in France, Germany and Italy**
- II. **Within Europe analysis: Identify and analyze similarities and differences**
  - Impetus to strengthen the VC investment
    - On EU level
    - On national levels in the 3 jurisdictions
  - Insights for development of a single EU Market for VC

# A. Research Objectives

- I. **Analyse and compare CV contracting practices in France, Germany and Italy**
- II. **Within Europe analysis: Identify and analyze similarities and differences**
- III. **Transatlantic analysis: Compare EU VC practices with US VC practice**
  - Historically, EU VC practices built on US VC practice: contractual “imports”
  - Silicon Valley as most important VC area in US
  - Question whether and to what extent US practices still important: transnational legal ordering

## B. Research hypotheses

- I. Standardization of VC practices along legal framework
- II. EU VC market does not suffer from lack of legal sophistication
- III. Codified contract law is of limited relevance

## B. Research hypotheses

### I. Standardization of VC practices along legal framework

- Cross-boarder moves: Relocation on verge of exit for successful start-ups?
- Economic terms & Control terms in term sheet beyond legal system and financial regulations

## B. Research hypotheses

- I. Standardization of VC practices along legal framework
  
- II. EU VC market does not suffer from lack of legal sophistication
  - Variations on US themes and differences from US explainable by
    - Differences in legal framework
    - Differences in market environment
  - Example: Voting on an as-converted basis
    - Illegal in Europe – no multiple voting shares in public corporation
    - Requires contractual work-around
    - Greater use of contract in EU (corporate law more rigid than in the US)

## B. Research hypotheses

- I. Standardization of VC practices along legal framework
- II. EU VC market does not suffer from lack of legal sophistication
- III. Codified contract law is of limited relevance
  - Example: Preference shares
    - Legal in France, but corporate formalism makes them less attractive than SAS with incorporated shareholders agreement
    - Importance of institutional context beyond the rules

## C. Expected Insights

- I. First-time overview and comparison of VC contracting in continental Europe
- II. Analysis of persistence and fading of US VC model
- III. Relative importance of freedom of contract



# D. Limitations and Issues

## I. Empirical basis

- Project has to rely on model contracts and selected practitioners
- How to catch recent trends
- Underestimate industry specificity of terms and conditions

## II. US contract mode

- Continuing market leadership of Silicon Valley? What about Texas?

## III. Functional law & econ approach

- VC contracting as an answer to an economic incentive issue
- Role of social structures and social norms