Business Law, Commercial Law, and Company Law: Understanding the Differences

In French law, three terms often overlap but do not mean the same thing: droit des affaires (business law), droit commercial (commercial law), and droit des sociétés (company law). They are related, but each has its own scope.

1. Business Law (Droit des affaires)

- The broadest field: it governs all legal rules related to economic activities.
- It includes private law rules (contracts, companies, competition, bankruptcy) but also public law rules, for example:
    - Tax law (corporate income tax, VAT)
    - Administrative law (public procurement, concessions, regulation of utilities)
    - Regulatory law (financial markets supervision, environmental obligations for businesses)
- This shows that business law is not limited to the private commercial sphere — it cuts across private and public law.

Example: A dispute over a merger (private law: competition rules) and a company's obligation to respect environmental regulations imposed by the State (public law) both fall within business law.

2. Commercial Law (Droit commercial)

- A subset of business law, focused only on merchants and commercial acts.
- Defined in the Commercial Code (art. L.121-1 et seq.).
- It provides special rules such as:
    - Jurisdiction of the Commercial Court
    - Proof rules (contracts can be proven by any means between merchants)
    - Specific commercial contracts (agency, distribution, lease of commercial premises)

Example: If a wholesaler signs a distribution contract, or a merchant takes out a commercial loan, these are governed by commercial law.

3. Company Law (Droit des sociétés)

- Traditionally seen as a branch of commercial law, since most companies are considered commercial in nature (SARL, SA, SAS, etc.).
- But not all companies are commercial:
    - Certain forms, such as civil companies (sociétés civiles), are governed by company law but not by commercial law.
    - Example: a société civile immobilière (SCI) used to manage family real estate.

- Company law therefore has a wider reach than commercial law, since it applies to *all* companies, whether commercial or civil.
- **It regulates:**
    - Creation (contract of company, contributions: cash, in kind, industry)
    - Governance (rights of partners/shareholders, powers of directors, fiduciary duties)
    - Financial rules (share capital, dividends, accounting obligations)
    - Termination (merger, transformation, dissolution, liquidation)

Example: Incorporating an SA with a board of directors falls under company law and commercial law, whereas creating a SCI for real estate falls under company law but not commercial law.

In Summary

- Business law = all rules relating to economic activity, covering both private law (contracts, companies, competition) and public law (taxation, regulation, environmental compliance).
- Commercial law = a subset of business law, covering merchants and commercial acts only.
- Company law = usually treated as part of commercial law, but in reality it is broader because it also governs non-commercial companies (e.g., civil companies).

