

Prof. Dr. Alexander Trunk

Vorlesung / Course
Introduction to Comparative Law
Einführung in die Rechtsvergleichung

Winter term (WS) 2018-2019

<http://www.eastlaw.uni-kiel.de>

17.10.2018: Basic questions and structures of comparative law

24.10.2018 Structures and methods of comparative law

31.10.2018: *Holiday*

07.11.2018: Methods of comparative law (continued)

14.11.2018: Legal families (overview)

21.11.2018: German legal family (deutscher Rechtskreis)

28.11.2018: French legal family

05.12.2018: Anglo-American legal family

12.12.2018: The legal systems in Northern and Eastern Europe

19.12.2018: Legal systems in Asia

09.01.2019: Religious laws, in particular Islamic law

16.01.2019: Contract law I (Vertragsrecht)

23.01.2019: Contract law II

30.01.2019: Torts law (Deliktsrecht)

06.02.2019: Property law (Sachenrecht)

13.02.2019: Civil procedure

Introductory example

You work in a German enterprise, which intends to set-up an establishment in Ukraine. The enterprise would like to use its German-based general contract terms also in its relations to Ukrainian customers and asks whether this is possible. You have to check the German terms on the basis of Ukrainian law, in particular art.634 of the Ukrainian Civil Code.

Art.634 Ukrainian Civil Code (2003): Contract of adhesion

(1) A contract of adhesion is a contract the terms of which are set by one of the parties in forms or other standard formats and which may be concluded only by way of the other party joining the proposed contract as a whole. The other party may not propose its own contract terms.

(2) The joining party can request **modification or termination** of the contract if the contract deprives it of its **usual rights** under such contracts, **excludes or restricts the liability** of the other party or contains other **provisions obviously burdensome** for the joining party. ...

(3) If a claim to modify or terminate a contract is brought forward by a party joining it in connection with its **business** activity, the other party may refuse to satisfy these claims if it proves that the joining party was aware or could be aware of the provisions of the contract.

Notion and object of comparative law

- 1) Differences between legal orders
- 2) Comparative law (Rechtsvergleichung (droit comparé) = science of comparing national and assimilated legal orders
- 3) Object: law of all legal disciplines.
Here: Comparison in the field of civil law.

Tasks of comparative law

- **Scientific function**
- **Forensic-practical function**
- **Legislative function**

Problem of guiding interests and and expected outcomes, in particular in case of „legal transplants“/processes of „reception“ of foreign law