

Class

**Unification of Law - Uniform Law  
(Rechtsvereinheitlichung)**

Summer term 2020

# Time schedule of the class

15.04.2020 Basics of unification of law: notion, purposes, history

22.04.2020 Institutions of unification of law. Sources of uniform law. Methods of unification of law

**29.04.2020 Research and solving cases in the field of uniform law**

06.05.2020 Uniform sales law (CISG)

13.05.2020 CISG II. Uniform law in other parts of the law of obligations

20.05.2020 Uniform credit security law

27.05.2020 Uniform transport law I (road, railroad, air)

03.06.2020 Uniform transport law II (maritime transport)

10.06.2020 Uniform information technology (IT) law

17.06.2020 Approximation of laws in Europe, in particular the EU

24.06.2020 Unification of the law of civil procedure

01.07.2020 Unification of insolvency law

08.07.2020 Case law analysis: practical example

Class UL 3  
Part 1 (of 4)

# Research and solving cases in uniform law

- **Research for academic purposes**
- **Research (and political work) for legislative purposes**
- **Solving practical cases**
- **Analysis of case law**

# Academic Research

# Academic research on uniform law: examples

You are asked to answer a certain question under (eg) the CISG.

Or: You are asked to compare a particular aspect of the CISG with (eg) German law.

How would you proceed?

# Methodological approaches to performing research tasks on uniform law

- Understand/interpret research: question of general or specific character? Purpose mere analysis or any proposals?
- Does research question require comparative approach? If so, of what kind and intensity?
- Define relevant sources
- Build synopses
- Introduction into problem – overview of sources and contents – issues – outcome/summary and perspectives
- Define relevant issues and prioritise them
- Find good structure (balanced! focused!)
- Time management!
- Find and use relevant literature
- Find and use relevant case-law, possibly arbitral practice. Prioritise and select case-law, e.g. on comparative basis
- Correct quotations
- Write clearly! Shorten your text! Read it through again several times! Ask somebody else to read it and invite comments.

# Question of research under some source of uniform law

## **For example: CISG**

**Introduction, e.g. overview of problem**

**Topic 1: Sphere of application of uniform law**

**Topic 2: relevant provision(s)**

**Topic 3: prerequisites**

**Topic 4: legal consequences**

**Topics 5 etc.: (possible): evaluation, comparison, outlook**



# Some provisions compared

## **CISG**

**Topic 1**

**Topic 2**

**Topic 3 ...**

## **German law**

**Topic 1**

**Topic 2**

**Topic 3**

**Topic 4 ...**

**Comparison?**

# Structure model

A. Introduction (*should already use quotations*)

B. Topic 1

I.

1.

a)

aa)

aaa)

(1)

(a)

..

C. Topic 2

D. Topic 3

E. Summary and outlook

**Not:**

1.

1.1.

1.1.1.

1.1.1.1.

1.1.1.1.1. ...

1.2.

1.2.1.

1.2.2....

2. ...

**Not:**

A.

1.

a)

1.1.

1.1.1.

aaa)

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Class UL 3  
Part 2 (of 4)

# Research for legislative purposes

# Research for legislative purposes: practical task

You work in the UNCITRAL secretariat. At a working session the representatives of three States suggest that UNCITRAL should update the CISG. You are asked to develop a concept.

How would you proceed?

# Research and practical realization of the legislative function

- Recognise/define the problem
- Collect proposals for solutions to the problem, use pre-ceding studies
- Do your own scientific analysis of the problem using comparative law
- Which purpose of project: best practices v. minimum standards
- Questionnaire(s)
- Select and use experts
- Transparency of the legislative process
- Languages?
- Use of neighbouring disciplines
- Selection of members of working group and chairperson
- Choice of legal instrument (treaty, model law, official commentary, legislative guides etc.)
- Circulation of results
- Implementation

# Suggestions

- Does your organization have competence for the project?
- Are there any other organizational requirements?
- Is there political support?
- ...

Solving a case under uniform law



# Solution of practical case

A (merchant from Germany) and B (merchant from France) conclude by email a sales contract on metal products. A delivers, but B does not pay.

How would you solve such a case?

# Solution of a case (example electronic sales)

- Which legal source(s) applicable?
- Conflict of laws issues?
- **Legal basis of claim?** (e.g. under uniform law)
- **Conclusion of valid contract?**
- Substantive law
- Formal validity – e.g. ***emails sufficient, procedural issues of proof.***
- **Legal consequence:** contract has to be performed. But: specific legal consequences for non-performance?
- Non-performance?
- Excused?
- Legal consequences, e.g. claim for performance, damages, dissolution of contract
- **Evaluation/proposals for future action?**

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Part 4 (of 4)

# Case analysis

# Methodological approaches to case law analysis on uniform law

- **International or European case law**

*Please give an analysis of the judgment of the European Court of Justice of ...*

- **National case law on uniform law (eg CISG) problem**

*Please give an analysis of the judgment of the German Supreme Court of 28 May 2014, VIII ZR 410/12 (<http://cisgw3.law.pace.edu/cases/140528g1.html>)*

- **Case law on uniform law (or different uniform laws) in comparison**

*Please compare the judgment of the German Supreme Court of ... with the judgment of the US Supreme Court of ..., A. v. B. (554 U.S. 222 (2008)).*

Sprache des Dokuments :  ECLI:EU:C:2012:657

JUDGMENT OF THE COURT (Grand Chamber)

23 October 2012 (\*)

(Air transport – Regulation (EC) No 261/2004 – Articles 5 to 7 – Montreal Convention – Articles 19 and 29 – Right to compensation in the event of delay)

In Joined Cases C-581/10 and C-629/10,

REFERENCES for a preliminary ruling under Article 267 TFEU from the Amtsgericht Köln (Germany) and the High Court of Justice of England and Wales, Queen's Bench Division decisions of 3 November and 10 August 2010 respectively, received at the Court on 13 and 24 December 2010, in the proceedings

**Emeka Nelson,**

**Bill Chinazo Nelson,**

**Brian Cheimezie Nelson**

v

**Deutsche Lufthansa AG** (C-581/10),

and

The Queen, on the application of:

**TUI Travel plc,**

**British Airways plc,**

**easyJet Airline Company Ltd,**

**International Air Transport Association**

v

**Civil Aviation Authority** (C-629/10),

THE COURT (Grand Chamber),

composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, G. Arestis, J. Malenovský (Rapporteur), M. Berger, Presidents of Chambers, E. Juhász, A. Borg Barthet, J.-

# Case law analysis, e.g. international courts, national courts, several courts in comparison

**Introduction** - The problem

The **facts** (*short + relevant, in your own words*)

The **decision**: contents, structure, procedure (e.g. *preceding decisions*), argumentation. **In case of the Court of Justice of the EU: see also opinions of Advocates General**

The **issues in context** of the relevant legal norms and other jurisprudence. *Make good structure + prioritise! Is already commentary available? Correct quotations! Has relevant legislation changed or are changes planned?*

**Critique?**

Possibly comparison

**Conclusions**, e.g. evaluation of the decisions, legislative proposals. *Think beyond the decision!*

# Landmark judgment of the EU Court of Justice clarifies the concept of ‘passenger’ in air transport

TOPICS: Irene Otero Fernandez



POSTED BY: ADMIN 9 JULY 2015

On February 26<sup>th</sup> 2015 the Court of Justice of the European Union delivered a judgment on the interpretation of Regulation (EC) No 785/2004 on insurance requirements for air carriers and aircraft operators, as well as on the Convention for the Unification of Certain Rules for International Carriage by Air, concluded in Montreal on 28<sup>th</sup> May 1999, signed by the European Community on 9 December 1999, and approved by Council Decision 2001/539/EC of 5<sup>th</sup> April 2001. This decision closed Case C-6/14, *Wucher Helicopter GmbH and Euro-Aviation Versicherungs AG v Fridolin Santer* and for the first time clarified the definition of passenger in the above-mentioned Regulation 785/2004.

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