

Prof. Dr. Alexander Trunk

Vorlesung / Course
Introduction to Comparative Law
Einführung in die Rechtsvergleichung

Winter term (WS) 2016-2017

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

18.10.2016: Basic questions and structures of comparative law

25.10.2016 Methods of comparative law

01.11.2016: Methods of comparative law (continued)

08.11.2016: Legal families (overview)

15.11.2016: German legal family (deutscher Rechtskreis)

22.11.2016: French legal family

29.11.2016: Anglo-American legal family

06.12.2016: The legal systems in Northern and Eastern Europe

13.12.2016: Legal systems in Asia. Religious laws (overview)

20.12.2016: Islamic law I

10.01.2017: Islamic law II

17.01.2017: Contracts law

24.01.2017: Torts law (Deliktsrecht)

31.01.2017: Property law (Sachenrecht)

07.02.2017: Civil procedure and arbitration

14.02.2017: Free topic

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

Legal literature

- Overview monographs (e.g. Zimmermann/Reimann, Zweigert/Kötz), „Casebooks“, introductions into the law of particular countries, comparative studies on specific topics
- Law journals: e.g. British International and Comparative Law Quarterly, American Journal of Comparative Law, (German) Zeitschrift für vergleichende Rechtswissenschaft, (Austrian) Zeitschrift für Rechtsvergleichung, Revue internationale de droit comparé, ...
- Internet!! LexisNexis, Westlaw, HeinOnline, Garant.





Welcome to Westlaw International

Lawyers and legal professionals in more than 60 countries worldwide turn to Westlaw International for legal, news and business information every day.

Designed to support the increasing global needs of the world's legal and business community, Westlaw International delivers content from internationally renowned and trusted sources via the latest and most intelligent online technology. Key highlights include:

Cases

- United Kingdom from 1865
- United States (Federal & State) from 1658
- European Union from 1952
- Australia from 1903
- Hong Kong from 1905
- Canada from 1825

Statutes

- United Kingdom Statutes from 1267 (fully consolidated)
- United States Code (fully annotated)
- Comprehensive European Union Legislation
- Hong Kong Legislation from 1997
- Canada Legislation (fully consolidated)

Over 1,000 Journals and Law Reviews

- Harvard Law Review
- European Competition Law Review
- Criminal Law Review
- McGill Law Review
- Melbourne University Law Review
- Hong Kong Law Journal

News

- New York Times
- Financial Times
- Thomson Financial News
- AP Newswires
- Economist
- Transcripts from major news channels

Citation technique

1. German sources: as usual
2. Foreign sources: in principle according to the standards of the source country,
e.g. laws in original title with date of adoption and entering into force, last amendment, official bulletin, auxiliary: Internet (last consulted on ...).

Example literature: *Collins*, L., Some Aspects of Service out of the Jurisdiction, (1972) 21 *ICLQ* 656 (658 f.)

Example jurisprudence: Cass Civ, 4.3.1980, Bull Civ I Nr. 72

DE GRUYTER

KIRCHNER ABKÜRZUNGS- VERZEICHNIS DER RECHTSSPRACHE

LEHRSTUFE

CIT

Max-Planck-Institut
für ausländisches und internationales Privatrecht

Rabels Zeitschrift für ausländisches und internationales Privatrecht

The Rabel Journal
of Comparative and International Private Law

McGrath, Colin Peter, and Helmut Kötzl:
*In Style of Reasoning a Fundamental Difference
Between the Common Law and the Civil Law?*

Renner, Moritz:
Transnationale Wirtschaftsverflechtung

Domini, Valentina M.: *Protection of Writen
Parties and Economic Challenges – An Overview
of Arab Countries' Consumer Protection Law*

Lieder, Jan: *Die Aufrechnung im Internationalen
Privat- und Verfahrensrecht*

Corneloup, Sabine: *Rechenschaftung im
internationalen Privatrecht der EU:
Überlegungen am Frankisch*



Band 78 (2014) Heft 4 (Oktober)

THE BLUEBOOK

A Uniform System of Citation

Eighteenth Edition

Jurisprudence in the field of comparative law

- Jurisprudence in different countries as object of comparative research. *Internet! Translation?*
- Foreign or comparative law in national or international jurisprudence: e.g. ECJ. „IPRspr.“ (German courts), law journals.
- See also „IPG“ (expert opinions of German universities on foreign law) and comments on jurisprudence.

Veröffentlicht im Auftrag des Deutschen Rates für Internationales Privatrecht von Prof. Dr. Dr.h.c. Jürgen Basedow, Prof. Dr. Dagmar Coester-Waltjen und Prof. Dr. Heinz-Peter Mansel

IPG – Gutachten zum internationalen und ausländischen Privatrecht

