

Prof. Dr. Alexander Trunk

Vorlesung / Course

Einführung in die Rechtsvergleichung
Introduction to Comparative Law

Winter term (WS) 2014-2015

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

27.10.2014: Basic questions and structures of comparative law

30.10.2014 optional lecture on the legal position of women in China

03.11.2014: Methods of comparative law *[in addition: guest lecture on Russian constitutional law]*

10.11.2014: Methods of comparative law (cont.)

17.11.2014: German legal family (deutscher Rechtskreis)

24.11.2014: France legal family

*28./29.11.2014 optional possibility to participate in conference „**Settlement of international trade disputes in/with countries of the region of Caucasus/Central Asia**“ (Landeshaus Kiel)*

01.12.2014: Anglo-American legal family

08.12.2014: The legal systems in Northern and Eastern Europe

15.12.2014: Legal systems in Asia

22.12.2014: Religious laws

12.1.2015: Law of contract (contracts law)

19.1.2015: Law of torts

26.1.2015: Property law - Sachenrecht (date under reservation)

02.02.2015: Commercial law (date under reservation)

09.02.2015: Civil procedure and arbitration

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.



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- 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. For LLM candidates: course by Mr. Nazar Panych
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, 21 *ICLQ* 656 (658 f.)

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

Jurisprudence, institutions of comparative law

- Jurisprudence: „IPRspr.“ (German courts), law journals. See also „IPG“ (expert opinions of German universities on foreign law). **Internet!**
- Institutions of comparative law: scientific and practitioners's associations (e.g. International Academy of Comparative Law), universities, research institutes (e.g. Max Planck Institutes), international organizations (e.g. UNCITRAL, Unidroit, EU).



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President's Message, October 20

Dear friends and colleagues,

In July 2014, at the 19th World Congress of Comparative Law in ... President of the International Academy of Comparative Law. It is a g and I wish to express my deepest thanks for trusting me to lea coming four years.

Let me briefly introduce myself. I am of German origin and Dutch b legal education in Göttingen and Berlin and started my profe Netherlands in 1980. Since 1995 I have been a professor of private comparative law at Utrecht University and since 2010 I have been an ... the University of the Western Cape in South Africa. My ... f

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Historical sketch

- Aristoteles, Platon
- Middle Ages: universalist legal orders
- Modern Ages: natural law doctrine; rise of comparative law in the 19th century:
 - = Comparative law as an instrument of legal politics (e.g. AGHGB 1861)
 - = 1846 Chair of comparative criminal law at Paris Sorbonne University
 - = 1869 foundation of the Société de législation comparée
 - = J. Story, W. Burge, W. Mittermaier, J. Foelix
- Intensive use of comparative law since mid 20th century (UN-suborganisations, EU and others).

Neighbouring disciplines

- History of law
- Sociology of law
- Economic analysis of law
- Legal politics (e.g. unification of law)
- Private international law (including procedure)
- Others, e.g. Legal ethnology, legal philosophy

Methods of comparative law

- Cognizance of foreign law. If possible work in original languages.
- Object of comparative research:
 - = Comparison of legal norms – comparison of legal practice
 - = Macrocomparison - microcomparison: „Legal families (Rechtskreise)“
- Core elements of comparison: **„functional“ approach**. Knowledge of one’s own law as a precondition. Precaution with use of seemingly well-known „own“ legal terms or legal structures.

Steps of comparison

- 1) Formulate the research question
- 2) Find the applicable legal norms or jurisprudence. *Quote exactly!*
- 3) Common elements
- 4) Differences
- 5) Which are the underlying (possibly diverging) values?
- 6) Make your own evaluation
- 7) Consequences, e.g. proposal de lege ferenda