

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: German legal family (cont.)

*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: French legal family

08.12.2014: Anglo-American legal family

15.12.2014: **The legal systems in Northern and Eastern Europe**

12.1.2015: Legal systems in Asia. Religious laws.

19.1.2015: Law of contract. 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

# Steps of comparison

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

# Classification of legal systems according to regional criteria

- Northern Europe
- Eastern Europe
- Asia
- Others: Africa, South America, Australia, „Europe as a whole“

# Nordic laws („Scandinavia“)



# What is Scandinavian Law? Concept, Characteristics, Future

Ulf Bernitz

<b>1</b>	<b>Scandinavian Studies in Law 50 Years .....</b>	<b>14</b>
<b>2</b>	<b>The Themes of the Article .....</b>	<b>15</b>
<b>3</b>	<b>Scandinavian or Nordic Law? Terminology and Basic Legal Setting .....</b>	<b>15</b>
<b>4</b>	<b>The Classification of Scandinavian Law Within the Families of Legal Systems .....</b>	<b>17</b>
<b>5</b>	<b>The Peak and Decline of Inter-Nordic Legal Cooperation .....</b>	<b>23</b>
<b>6</b>	<b>The Relation between European Legislation and Scandinavian Legal Cooperation .....</b>	<b>26</b>
<b>7</b>	<b>Final Conclusions .....</b>	<b>28</b>

# Nordic laws

- Distinguish subregions Western and Eastern Scandinavia: Denmark/Norway, Sweden/Finland
- Constitutions: constitutional monarchies in Denmark, Norway, Sweden, republican system in Finland and Iceland. Norway not a EU member, but in the EEA. Particular position of Denmark in the EU.
- Legal history: Danske Lov 1683, Sveriges Rikes Lag 1734
- Texts of legislation and (some) court practice <http://www.retsinfo.dk>, <http://www.notisum.se>. „KARNOV“.
- Ring/Olsen-Ring, Einführung in das skandinav. Recht (1999)
- Nordisk Tidskrift for international Ret, Scandinavian Studies in Law

# Nordic laws – some characteristics

- In some aspects between English and Continental European law:
  - No overall codification of civil law, but fundamental specific statutes.
  - No formal doctrine of precedent, but important practical relevance of case law.
  - Great relevance given to analogies.
- Nordic cooperation also in the field of law: Nordic Council (since 1951). Treaties, model laws, informal cooperation made easy by similarities of language and social structures.
- *See also: Council of Baltic Sea States (CBSS) and „Northern Dimension“*





norden

→ Dansk  
→ Suomi  
→ Norsk

→ English  
→ Íslenska  
→ Svenska



NEWS AND EVENTS

ABOUT CO-OPERATION

THEME

FACTS ABOUT THE  
NORDIC COUNTRIES

RESOURCES

THE NORDIC COUNCIL  
MINISTERS

# The Nordic Council

the official inter-parliamentary body

## The Nordic Council

The Nordic Council

Members of the Nordic Council

Organisation and structure

Sessions, meetings and  
conferences

Programme for the Presidency

International co-operation

Nordic Council's prizes

The Nordic Council's

## COMMITTEES

- The Nordic Council Presidium
- Culture, Education and Training Committee
- Citizens' and Consumer Rights Committee
- The Environment and Natural Resources Committee
- Business and Industry Committee
- Welfare Committee
- Election Committee
- Control Committee

## SHORTCUTS

- Party groups
- National Delegations
- Cases
- Sessions
- Nordic Council's prizes
- The Nordic Council's scholarships for
- Calendar
- Nordic Council's Yearbook



Estonian Presidency 2014 - 2015



Council of the Baltic Sea States: From Idea to Action: Empowering Cooperation in the Baltic Sea Region

Baltic Sea Region Border Control Cooperation Heads Conference, 12-14 November, Tallinn

November 27, 2014

Tweets

Follow



CBSsecretariat @CBSsecretariat today @EUSBSR @BSRSecure 2nd Steering Group

9 Dec

Upcoming events: DEC 12 all-day Balticlab 3.0 Networking

# Laws in Eastern Europe



# Law in Eastern Europe - Subregions

- CEE (German: MOE) states (today EU member states), including Baltic states
- SEE (German: SOE) states (Ex-Yugoslavia); among them Slovenia and Croatia EU members
- Post-Soviet countries, in particular Russia. Further differentiation according to CIS, EU „Eastern Partnership“, Caucasus, Central Asia ...
- Greece? Turkey?

# Legal systems in Eastern Europe - some characteristics

- Some common historical traditions, in particular with German legal family. But also differences (e.g. Habsburg tradition, Russian Empire/USSR). Special case Romania.
- Common elements of social, economic and legal transition (former „socialist law“). *Particular topic Law in practice*.
- New Constitutions, new Civil Codes, in most post-Soviet countries „specific Codes“
- Relations with EU: accession? Partnership? Association? Alignment with EU law as a specific aspect.

# Romania

# Moldova



# The legal system

08.02.2013

ZF English

Broadly, the Romanian legal system stems from the Roman branch of law, but it is also partly influenced by the Anglo-Saxon branch. Romanian legislation has mostly been brought into line with EU law, as part of the EU accession procedure.

## The Constitution

The Romanian Constitution took effect in December 1991 and was revised in 2003, in preparation for EU accession. The Constitution provides strong support for the fundamental principles of private property and free market exchange, as well as explicit limitation and control of powers vested in public authorities. The amendments made in 2003 include the guarantee of private property as well as recognition of the rights of foreign citizens and stateless persons to privately own land in Romania under certain conditions, as well as by way of lawful inheritance.

Citizens' rights and duties set out in the Constitution are generally typical of those applying in democratic countries, such as freedom of speech, freedom of religion and movement as well as protection against arbitrary arrest and imprisonment. The Constitution states that citizens of national minorities with a significant population in local administrative units are entitled, under special circumstances, to use their mother tongue in their relations with local public administration authorities and local public service providers. The constitutionality of parliamentary legislation (i.e. laws, parliamentary regulations and government ordinances) and international treaties and/or agreements is subject to control by the Constitutional Court.

## Body of Laws

### Civil Law

The New Civil Code came into force on 1 October 2011, replacing the former code that was adopted in 1864, based on Napoleon's Civil Code of 1804. The current Civil Code is based on multiple sources of inspiration from many systems of law, e.g., civil codes of France, Italy, Quebec, Switzerland. The New Civil Code regulates for the first time certain institutions, such as trusts, parties' permission to set prescription terms for their obligations, etc., and modifies the effects of certain legal actions.

ZF NEWS

REC

- **Visa Romania: Two Thirds Consumption Based On C**
- **Government Promises RO 2015, Like In 2014, When**
- **2014 In Review: Ten Most Wood And Furniture Indu**
- **British Retailer Debenhan Bucuresti Mall In Spring**
- **Opus Land To Finish 400 EUR18M Investment**

## BNR EXCHANGE RA

EUR	▲ 4.464	+0.22	4.
GBP	▲ 5.639	+0.62	4.
USD	▲ 3.589	+0.31	4.
XAU	▲ 141.2	+0.56	4.

1EUR = 1.24USD 1USD = 0.80EUR

## CURRENCY CONVE

EUR ▼

# Laws in Eastern Europe - further information

- Offers in Kiel:
  - Specialisation in „SP 5“, classes and seminars,
  - Certificate Program on East European Law, Certificate Program East European Studies.
  - Study abroad and internships.
  - Research projects, e.g. current project on law of international trade in the region of Caucasus/Central Asia (including Russia).
- Literature:
  - Library of the Institute of Eastern Europe
  - Küpper, Einführung in die Rechtsgeschichte Osteuropas (2005)
  - Knieper/Chanturia/Schramm, Das Privatrecht im Kaukasus und in Zentralasien (2010)