



Instituto de Cooperação Jurídica
da Faculdade de Direito de Lisboa

Diploma in Civil Law
V post-graduate course

in cooperation between
the V. M. Salgãoocar College of Law, Panaji, Goa
and the
Faculty of Law of the University of Lisbon

Goa - 2012



Instituto de Cooperação Jurídica
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Programme of the course:

I - The Historical Origins of the Civil Law Systems in Europe

Prof.^a Doutora Isabel Banond

30 January to 3 February 2012

II - The Civil Law Tradition: a Comparative Perspective

Prof. Doutor Dário Moura Vicente

6 to 10 February 2012

III - Family Law in Civil Law Systems

Prof. Doutor Jorge Duarte Pinheiro

13 to 17 February 2012

IV - The Political Economy of European Integration

Prof. Doutor Miguel Moura e Silva

20 to 24 February 2012

V - The European Union Legal System

Prof. Doutor Fausto de Quadros

27 February to 2 March 2012



I

The Historical Origins of the Civil Law Systems in Europe

Prof.^a Doutora Isabel Banond

1) Roman law in antiquity

- The Twelve Tables
- the empire and the law
- the jurist in the classical period
- Justinian and the Corpus Iuris Civilis

2) The revival of Justinian's law

- Roman law and Germanic law in the West
- The rediscovery of the Digest
- Civil law and Canon Law
- Bologna and Orleans
- The glossators and the commentators
- Humanism and the civil law

3) Roman law and codification

- Roman law and the Nation Laws
- The french Civil Code
- The German Historical School



- The German Civil Code
- The Portuguese codifications

4) Other Legal Traditions

- The talmudic legal tradition
- The islamic legal tradition
- The hindu legal tradition



II

The Civil Law Tradition: a Comparative Perspective **Prof. Doutor Dário Moura Vicente**

I

Summary of the lectures

1. Introduction: subject-matter and purpose of the lectures.
2. Basic traits of the Civil Law Tradition.
3. Formation of the Civil Law Tradition.
4. The geographical scope of the Civil Law Tradition.
5. Fundamental concepts of the Civil Law Tradition.
6. Sources of the law in the Civil Law Tradition.
7. Legal method in the Civil Law Tradition.
8. Dispute settlement mechanisms in the Civil Law Tradition.
9. Legal training in the Civil Law Tradition.
10. Legal professions in the Civil Law Tradition.

II

Select bibliography

a) In English

1. Cruz, Peter de - *Comparative Law in a Changing World*, 3.^a ed., London/New York, Routledge/Cavendish, 2007.
2. D'Souza, Anthony, e Carmo D'Souza (orgs.) - *Civil Law Studies. An Indian Perspective*, Newcastle Upon Tyne, Cambridge Scholars Publishing, 2009.
3. Glenn, H. Patrick - *Legal Traditions of the World. Sustainable Diversity in Law*, 3rd ed., Oxford, Oxford University Press, 2007.



4. Head, John W. – *Great Legal Traditions. Civil Law, Common Law, and Chinese Law in Historical and Operational Perspective*, Durham, North Carolina, Carolina Academic Press, 2011.
5. Merryman, John Henry, and Rogelio Pérez-Perdomo – *The Civil Law Tradition*, 3rd ed., Stanford, California, 2007.
6. Noronha, F. E. - *Understanding the Common Civil Code. An Introduction to Civil Law*, Nagpur, All India Reporter, 2008.
7. Öricü, Esin, and David Nelken (editors) – *Comparative Law. A Handbook*, Oxford/Portland, Oregon, Hart Publishing, 2007.
8. Reimann, Mathias, and Reinhard Zimmermann (editors) – *The Oxford Handbook of Comparative Law*, Oxford, Oxford University Press, 2006.
9. Vicente, Dário Moura, et al. (editors) – *Family and Succession Law in the Portuguese Civil Code of 1867: a XXIst Century Approach*, Lisbon, 2008.
10. Zweigert, Konrad, and Hein Kötz - *An Introduction to Comparative Law*, Oxford, Clarendon Press, 1998.

b) In Portuguese

Vicente, Dário Moura - *Direito Comparado*, vol. I, *Introdução e parte geral*, Coimbra, Almedina, 2008.

III

Internet sites with free access

a) In English

1. <http://www.biicl.org> (British Institute of International and Comparative Law).
2. <http://www.civil.udg.es/ecplp> (European and Comparative Private Law Page).
3. <http://www.comparativelaw.org/> (American Society of Comparative Law).
4. <http://www.droitcivil.uottawa.ca/world-legal-systems/eng-monde.htm> (World Legal Systems)
5. <http://www.ejcl.org> (Electronic Journal of Comparative Law).
6. <http://www.germanlawjournal.com> (German Law Journal).
7. <http://www.glin.gov> (Global Legal Information Network).
8. <http://www.iuscomp.org> (The Comparative Law Society).
9. <http://en.jurispedia.org> (Jurispedia).



10. <http://www.lexadin.nl/wlg> (World Legal Guide).
11. <http://www.loc.gov/law/public/glm> (Library of Congress/Global Legal Monitor).
12. <http://www.nyulawglobal.org/globalex> (New York University/Globalex).
13. <http://www.ouclf.iuscomp.org> (Oxford University Comparative Law Forum).
14. http://ucl.ac.uk/laws/global_law/index.shtml (Institute of Global Law, University College London).

b) In Portuguese

1. <http://www.fd.ul.pt/CooperaçãoeRelInternacionais/InstitutoeCooperaçãoJurídica/BibliotecadigitalIusCommune.aspx> (Biblioteca Digital Instituto de Cooperação Jurídica)
2. <http://www.cplp.org> (Comunidade dos Países de Língua Oficial Portuguesa).
3. <http://www.dhnet.org.br/direitos/cplp/> (Legislação dos Povos de Língua Portuguesa).
4. <http://dre.pt/> (Diário da República Eletrónico).
5. <http://www.dre.pt/iolp> (Imprensa Oficial de Língua Portuguesa).
6. <http://www.gddc.pt> (Gabinete de Documentação e Direito Comparado).
7. <http://www.legis-palop.org> (Legislação dos Países Africanos de Língua Oficial Portuguesa).



III

Family Law in Civil Law Systems

Prof. Doutor Jorge Duarte Pinheiro

Summary

1. Presentation. Family Law in the main European Civil Codifications.
2. One European Family Law?
 - 2.1. Spontaneous convergences in the European countries
 - 2.2. The European Civil Code Project
 - 2.3. The Commission on European Family Law
3. Matrimonial Law¹
 - 3.1. Formation of marriage
 - 3.2. Effects of marriage
 - 3.3. Separation and divorce
4. Non-married Couples' Law
 - 4.1. Cohabitation (without marriage) Law
 - 4.2. Registered Life Partnership German Law
5. Children's Law
 - 5.1. Coming of age/emancipation
 - 5.2. Establishment of filiation
 - 5.3. Effects of filiation
6. *Mortis causa* effects of family relationships

¹ Themes of items 3-6 will be considered in the following Codes: French Civil Code (of 1804); Portuguese Civil Code of 1867; German Civil Code (of 1896); and Portuguese Civil Code of 1966.



- 6.1. Effects of family relationships on Succession or Inheritance Law: a bird's view
- 6.2. Concepts and types of succession
- 6.3. Intestate succession and family relationships
- 6.4. Mandatory (or legitimary) succession and family relationships
7. General conclusions

Basic bibliography

a) In English

- Boele-Woelki, Katharina and other authors, *Principles of European Family Law Regarding Divorce and Maintenance Between Former Spouses*, Antwerp/Oxford, Intersentia, 2004.
- Boele-Woelki, Katharina and other authors, *Principles of European Family Law Regarding Parental Responsibilities*, Antwerp/Oxford, Intersentia, 2007.
- Chaveau, Veronique/Cornec, Alain, chapter "G France", in Hamilton, Carolyn/Perry, Alison (editors), *Family Law in Europe*, 2nd edition, London, Butterworths, 2002, pages 251-290.
- Costa, Mário Bruto da, *Law of Succession*, bound edition (previous edition of 1997 (?)), Panjim (Goa), Author's edition (sponsored by Fundação Oriente), 2000 (?).
- Costa Mário Bruto da, *Matrimonial Regimes and Inventory*, bound edition, Panjim (Goa), Author's edition (sponsored by Fundação Oriente), 2000.



- Dyson, Henry, *French Property and Inheritance Law (Principles and Practice)*, Oxford, Oxford University Press, 2003.
- Gottwald, Peter/Schwab, Dieter/Bütner, Eva, *Family and Succession Law in Germany*, The Hague/London/Boston, Kluwer Law International, 2001.
- Instituto de Cooperação Jurídica da Faculdade de Direito da Universidade de Lisboa, *O Direito da Família e das Sucessões no Código Civil Português de 1867: Uma Perspectiva do Século XXI/Family and Succession Law in the Portuguese Civil Code of 1867: A 21st Century Approach*, Lisbon, AAFDL, 2008.
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- Martiny, Dieter, "Chapter 9 Family Law", in Reinmann, Mathias/Zekoll, Joachim, *Introduction to German Law*, 2nd edition, The Hague, Kluwer Law International, 2005, pp. 251-270.
- Oliveira, Guilherme de, "A European Family Law? (Play it Again, and Again... Europe!)", in *Um Código Civil para a Europa/A Civil Code for Europe/Un Code civil pour l'Europe*, Coimbra, Coimbra Editora, 2002, pages 127-135.
- Schweppe, Katja, "Chapter H Germany", in Hamilton, Carolyn/Perry, Alison (editors), *Family Law in Europe*, 2nd edition, London, Butterworths, 2002, pages 291-324.



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- Usgãocar, M. S., *Family Laws of Goa, Daman and Diu, Panaji (Goa)*, Vela Associates, volume I, 3rd edition, 2004, volume II, reprint (of the 1st edition 1988), 2007.

b) In Portuguese

- Ascensão, Oliveira, *Direito Civil – Sucessões*, 5^a edição, Coimbra, Coimbra Editora, 2000.
- Coelho, Pereira/Guilherme de Oliveira, *Curso de Direito da Família*, Coimbra, Coimbra Editora, volume I, *Introdução. Direito Matrimonial*, 4^a edição, 2008, volume II, *Direito da Filiação*, tomo I, *Estabelecimento da filiação. Adopção*, 2006.
- Corte-Real, Pamplona, *Direito da Família e das Sucessões*, volume II – *Sucessões*, Lisboa, Lex, 1993.
- Corte-Real, Pamplona, "Um Código Civil para a Europa. Necessidade e interesse de uma unificação no âmbito do Direito das Sucessões", in *Um Código Civil para a Europa/A Civil Code for Europe/Un Code civil pour l'Europe*, Coimbra, Coimbra Editora, 2002, pages 137-157.
- Gonçalves, Luiz da Cunha, *Tratado de Direito Civil em comentário ao Código Civil Português*, Coimbra, Coimbra Editora, volumes II, VI, VIII, IX, X, XI and XIV, 1930-1940.
- Lima, Pires de/Varela, João de Matos Antunes, *Noções Fundamentais de Direito Civil, vol. II, Lições ao Curso do 1º ano jurídico de 1944-45 (Família e Sucessões)*, bilingual edition (sponsored by Fundação Oriente and Ordem dos Advogados Portugueses), including translation into



English [*Fundamental Concepts of Civil Law*, vol. II, *Lectures to the 1st Year Law Course of 1944-45 (Family Law and Succession)*], Lisboa (?), 1997 (?).

- Oliveira, Guilherme de, "Um Direito da Família Europeu? (Play it Again, and Again... Europe!)", in *Um Código Civil para a Europa/A Civil Code for Europe/Un Code civil pour l'Europe*, Coimbra, Coimbra Editora, 2002, pages 117-126.

- Pinheiro, Jorge Duarte, *O Direito da Família Contemporâneo*, reimpressão da 3ª edição, Lisboa, AAFDL, 2011.

- Pinheiro, Jorge Duarte, *O Direito das Sucessões Contemporâneo*, reimpressão, Lisboa, AAFDL, 2011.

c) In French

- Carbonnier, Jean, *Droit civil*, tome 2, *La famille, l'enfant, le couple*, 21e édition, Paris, PUF, 2002.

- Corte-Real, Pamplona, "Un Code civil pour l'Europe. Nécessité et Intérêt d'une Unification dans le Domaine du Droit des Successions", in *Um Código Civil para a Europa/A Civil Code for Europe/Un Code civil pour l'Europe*, Coimbra, Coimbra Editora, 2002, pages 159-180.

- Malaurie, Philippe, *Les successions, les libéralités*, 4e édition, Paris, Defrénois, 2010.

- Terré, François/Simmler, Philippe, *Droit civil: Les régimes matrimoniaux*, 6e édition, Paris, Dalloz, 2011.

d) In German

- Gernhuber/Coester-Waltjen, *Familienrecht*, 5. Auflage, München, Beck, 2006.



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- Brox, Hans/Walker, Wolf-Dietrich, *Erbrecht* , 24. Auflage, Köln, Heymanns, 2010.

European Civil Codes in English versions

- French Civil Code (Code civil), translation from French, 4/4/2006, [http:// legifrance.gouv.fr](http://legifrance.gouv.fr) (last consultation: December 2011).
- German Civil Code (BGB), daily updated translation from German, http://www.gesetze-im-internet.de/englisch_bg (last consultation: December 2011).



IV

The Political Economy of European Integration **Prof. Doutor Miguel Moura e Silva**

Course description

International economic integration has generally been viewed as consisting fundamentally of legal disciplines aiming at the abolition of legal obstacles to trade between members of a given economic bloc. Using competition rules addressed to undertakings (often private ones but also encompassing state enterprises) as a tool of market integration is, to a large extent, a European phenomenon. Although the EU is not the only regional organization with a set of competition rules, there is no doubt it is unparalleled in the degree to which these are enforced. Fines in cartel cases alone amounted to a total of € 2.868 million in the year 2010 alone! Large firms have had to change their business practices in quite fundamental aspects as a result of enforcement action by the European Commission. And major restructuring of industries of worldwide scope that substantially affects market structure within the EU comes normally requires approval of the European Commission in accordance to EU merger rules.

The goal of this course is to provide a basic introduction to fundamental concepts of competition policy in the context of a broader goal of integrating markets and bringing about an ever closer union between the peoples of Europe. The interplay of law and economics will be a strong element of the course. Finally, the problems raised by the development of a coherent competition law within a legally complex context, composed of different national legal orders (most of them based on civil law and others – the United Kingdom and the Irish Republic - on a common law tradition) and a supranational one will also be addressed in the course.

Course plan

Unit 1: Competition Law and Policy and Market Integration in the European Union – Basic Concepts

Unit 2: Vertical Restraints and Parallel Imports



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Unit 3: Horizontal Restraints: The Good, the Bad and the Ugly

Unit 4: Abuse of Dominance: Exclusion and Exploitation Abuses

Unit 5: Merger Policy: Moving from National Champions to European Champions?

Materials

Before the course, reading materials shall be provided with regard to each topic. Materials will be discussed in class, and I will address questions to the audience, following the well-known Socratic method.

References

KORAH, Valentine - *An Introductory Guide to EC Competition Law and Practice*, 9th ed., Oxford : Hart Publishing, 2007.

MONTI, Giorgio - *Competition Law*, Cambridge : Cambridge Univ. Press, 2008.

WHISH, Richard - *Competition Law*, 6th ed., Oxford : Oxford Univ. Press, 2008.



V

The European Union's Legal System **Prof. Doutor Fausto de Quadros**

Chair Jean Monnet in Constitutional and Administrative European Union's Law

Jean Monnet Centre of Excellence of the University of Lisbon

1. International Law and European Union's Law. The specificity of the European Union's Law
2. State's sovereignty and European Integration
3. The relation between member States and European Union: subsidiarity, primacy of European Union's Law
4. European Constitution: values and constitutional principles of the European Union
5. European citizenship and fundamental rights in the European Union
6. The competences of the European Union
7. The institutions of the European Union
8. The external relations of the European Union, including with Asia
9. Enforcement of the European Union's Law
10. Legal remedies in European Union's Law