

COMPARATIVE LAW FALL SEMESTER

COMPARATIVE LAW

Regent:

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Teaching Assistant:

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General objective of the course:

Comparative Law studies how law is applied across different legal families, including Civil Law, Common Law, Muslim, Hindu, and Chinese legal traditions, as well as hybrid systems that incorporate features from two or more legal families. The Comparative Law course aims to provide students with a general understanding of the main characteristics of these legal families and how they conceive and apply the law in broad terms.

Special attention will be given to Contract Law, particularly within the two major Western legal families – Civil Law, which characterizes continental Europe, and Common Law, which includes, notably, the United States of America and England. The comparative study of Contract Law plays an important role in harmonization efforts and is also significant in interpreting and applying national law.

This course aims to equip students with tools for interpreting and applying contracts through different legal perspectives and conceptual frameworks.

Syllabus

1. Presentation of the course
2. Comparative Law: notion, purposes and methods.
3. The main legal families and their characteristic features: *Civil Law*, *Common Law*, *Muslim tradition*, *Hindu tradition* and *Chinese tradition*, as well as in hybrid systems
4. The *Civil Law* and *Common Law* legal families: common characteristics and dissimilarities
5. The notion of contract and its constituent elements in the legal families of *Civil* and *Common Law*. *Cause* and *consideration*.
6. The formation of the contract in the legal families of *Civil* and *Common Law*.
7. The institutes of *culpa in contrahendo* and *promissory estoppel*
8. The adhesion contracts and the *battle of the forms*.
9. The principle of contractual freedom.
10. Third-Party Rights.
11. Contractual justice/fairness.
12. The change of circumstances and excessive burdensomeness.
13. Hardship and *force majeure* clauses.
14. Performance and compliance with contracts.
15. Breach of contracts.
16. Defective performance of contracts.
17. Non-contractual liability and contractual liability: meaning and limits of distinction.
18. The international harmonization of Contract Law and the *UNIDROIT Principles*.
19. The European harmonisation of the sale and purchase in Directive (EU) 2019/771.

Main Bibliography

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- Vicente, Dário Moura - *Comparative Law of Obligations*, Cheltenham, Edward Elgar, 2021.
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- Youngs, Raymond – *English, French & German Comparative Law*, 3.^a ed., Londres/Nova Iorque, Routledge, 2014, capítulo 6.
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