

FDUL – Curso Intensivo 2026

“Construction contracts in the system of German Civil law – Archetype or special case for the attribution of risks? An introduction with special regard to the 2018 provisions in the German Civil Code governing construction contracts”

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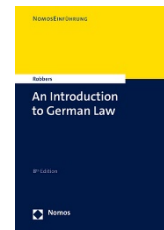
Syllabus

Sept. 28	• Historical development of legal structures from ancient Roman law to the recent amendments of the German Civil Code (GCC) • Construction contracts in legal practice: ◦ established types of construction contracts (secs. 650a, 650p, 650u GCC) ◦ “players” ◦ hardware of institutions: Construction law Senate at Supreme Court; new Construction law chambers and senates at Regional Courts and Courts-of-Appeals • Construction contracts and public policy issues • Protection of competition and consumers (secs. 650i-o GCC)
Sept. 29	Qualification of construction contracts • Construction contracts as contracts for a work; special problems of architects’ contracts and developers’ contracts • main differences in comparison with sales contracts and service contracts • Structure of the new provisions in force since January 1st, 2018 • Overview of the new provisions in force since January 1st, 2018
Sept. 30	The risk of completion – What does the contractor owe? • Interpretation of the contract; obligation to achieve result (sec. 631 GCC) • Scope of defence of impossibility, disproportionality (secs. 275 (2), 635 (3) GCC) • Role of the employer with regard to the contractor’s performance (sec. 645 GCC) • Remedies for material defects (sec. 634 – 639 GCC)
Oct. 1 st	The risk arising from the lapse of time – Construction contracts as contracts with an extended period of performance: • Relationship between production and acceptance of work produced (secs. 640, 644, 650g GCC) • Flow of remuneration (sec. 641, 632a GCC) • Employer’s right to terminate (secs. 648, 648a, 650h GCC) • Employer’s right to amend the object of contract (sec. 650b-d GCC) • Contractor’s and employer’s securities (sec. 650e, 650f GCC)
Oct. 2 nd	The risk arising from the need of co-ordination – Construction contracts as contracts involving performances of multiple parties: • Types of relations (linear, parallel, circular) • Privity of contract and interdependent contracts; the need for co-ordination • Distinction between duty and mere obligo (secs. 642, 643 GCC) • Legal instruments of co-ordination (secs. 278, 421 ff., 650r GCC)

The lecture will be taught in English language. A full text version of the German Civil Code in English language is available (<https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.pdf>), even if it only reflects the state of the law as of August 10, 2021.

Recommended preparatory reading:

- *Robbers*, An Introduction to German Law, 8th ed., 2023, parts A., D.I.-III.);
- *Schulte-Nölke*, The New German Law of Obligations: an Introduction, 2002, <<http://germanlawarchive.iuscomp.org/?p=357>> (scroll down left to “Literature” and “Articles”);
- *Zimmermann*, The New German Law of Obligations. Historical and Comparative Perspectives, 2005, available on Oxford Scholarship Online, DOI:10.1093/acprof:oso/9780199291373.001.0001;
- *Zimmermann*, The German Civil Code and the Development of Private Law in Germany, (2006) Oxford U Comparative L Forum 1, <<https://ouclf.law.ox.ac.uk/the-german-civil-code-and-the-development-of-private-law-in-germany/>>.



For more specific information it is recommended to use Dannemann/Schulze (eds.), German Civil Code Volume I = Bürgerliches Gesetzbuch (BGB), Books 1-3: §§ 1-1296, 2020.