



The Hebrew University of Jerusalem

Syllabus

GERMAN CIVIL CODE - 62311

Last update 31-08-2018

HU Credits: 2

Degree/Cycle: 1st degree (Bachelor)

Responsible Department: Law

Academic year: 2024

Semester: 1st Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Katya Assaf Zakharov

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Coordinator Office Hours: Wed 12:15-13:00

Teaching Staff:

Dr. Katya Assaf

Course/Module description:

The course aims to provide basic knowledge of the German Civil Code (das BGB). The students learn the basic principles and the main doctrines of the BGB, which allows them to acquire basic knowledge of the continental thought in the field of civil law.

Course/Module aims:

Continental legal systems are characterized by an h way of thinking, general categories and exact rules that are similar to mathematical rules. This way of thinking is profoundly different from the casuistic thought, which characterizes the Anglo-American legal systems generally and the Israeli legal system in particular. The course aims to widen the horizons of the students by exposing them to a legal thought that profoundly differs from the one they are used to.

Learning outcomes - On successful completion of this module, students should be able to:

- Analyze a contract law case in terms of German Law
- Analyze a tort law case in terms of German Law
- Outline the basic principles of the German legal system

Attendance requirements(%):

100%

Teaching arrangement and method of instruction: Lecture

Course/Module Content:

1st Lecture: Introduction

What is German Law

German Civil Code - Bürgerliches Gesetzbuch (BGB)

History, Structure, Spirit

2nd Lecture: Basic Concepts

Obligation (Schuldverhältnis) - § 241 (1)

Legal Transaction (Rechtsgeschäft)

Expression of Will (Willenserklärung)

3rd Lecture: Types of Expression of Will

Unilateral and Multilateral Expression of Will

Expression of Will that requires reception and Expression of Will that does not require reception

4th Lecture: Expression of Will - Elements

Objective Element

Formal Requirements (Formzwang) - § 125

Subjective Element

- 1. Geschäftsbewusstsein*
- 2. Erklärungsbewusstsein*
- 3. Geschäftswille*

Performing Expression of Will and Receiving It

Fixed and non-fixed Expression of Will

Messengers

5th Lecture: Conclusion of Contract

Offer and Acceptance - §§ 145-149

Interpretation - § 133

invitatio ad offerendum

6th Lecture: Types of Legal Transactions

Verpflichtungsgeschäft and Verfügungsgeschäft

The Separation Principle, the Abstraction Principle

Unjust Enrichment - §§ 812, 818, 822

7-10th Lectures: Deficiencies in Expression of Will

Legal capacity - §§ 104-113

Deficiency of Will (Willensmangel)

1. Intended Deficiencies

Purposeful Hiding - § 116

Simulated Act - § 117

Non-seriousness - § 118

2. Unintended Deficiencies: Mistakes

Mistake in Motivation

Mistake in Legal Consequences
Mistakes of § 119
Wrong Transformation § 120

Cancellation because of a mistake §§ 121, 142, 143
The duty to compensate - § 122

3. The Doctrine “Wegfall der Geschäftsgrundlage”
Complementary Interpretation
Wegfall der Geschäftsgrundlage - § 157

4. Unlawful Influence on One’s Will

Deception - § 123
Illegal Threat - § 123

Cancellation because of deception or a threat - § 124

11th Lecture: Unlawful and Immoral Legal Transactions
Unlawful Legal Transactions § 134
Immoral Legal Transactions § 138

12-13th Lecture: Obligations Based on Law
Torts - § 823(1)
Actions performed without due authority (Geschäftsführung ohne Auftrag) - §§ 677, 678, 680, 683, 685-687

14th Lecture: Third Parties in Obligations
Proxies - §§ 164-168, 177, 179
Assistants - § 278, § 831(1)

Required Reading:
No required reading

Additional Reading Material:

§§ 125, 241 (1) BGB
NORBERT HORN, HEIN KÖTZ & HANS LESER, GERMAN PRIVATE AND COMMERCIAL LAW: AN INTRODUCTION 1982 (hereinafter: “GERMAN PRIVATE AND COMMERCIAL LAW”), pp. 74-76

§§ 133, 145-149 BGB

GERMAN PRIVATE AND COMMERCIAL LAW, pp. 76-79

§§ 812, 818, 822 BGB

B.S. MARKESINIS, H. UNBERTH & A. JOHNSTON, THE GERMAN LAW OF CONTRACT: A

*COMPARATIVE TREATISE 2006 (hereinafter: "THE GERMAN LAW OF CONTRACT"),
pp. 27-33*

*MARKESINIS THE GERMAN LAW OF OBLIGATIONS, VOL. 1: MARKESINIS, LORENZ &
DANNEMANN, THE LAW OF CONTRACTS AND RESTITUTION: A COMPARATIVE
INTRODUCTION 1997 (hereinafter: "THE LAW OF CONTRACTS AND RESTITUTION"),
pp. 20-21, 710-714*

§§ 104-113, 116-118 BGB

GERMAN PRIVATE AND COMMERCIAL LAW, pp. 71-74

§§ 119-122, 142-143 BGB

THE LAW OF CONTRACTS AND RESTITUTION, pp. 195-201

THE GERMAN LAW OF CONTRACT, pp. 276-302

§ 157 BGB

THE LAW OF CONTRACTS AND RESTITUTION, pp. 537-542

GERMAN PRIVATE AND COMMERCIAL LAW, pp. 80-84

§§ 123-124, 134, 138 BGB

THE GERMAN LAW OF CONTRACT, pp. 302-318

THE LAW OF CONTRACTS AND RESTITUTION, pp. 174-185

§§ 677-678, 680, 683, 685-687, 823(1) BGB

GERMAN PRIVATE AND COMMERCIAL LAW, pp. 146-155

§§ 164-168, 177, 179, 278, 831(1)

GERMAN PRIVATE AND COMMERCIAL LAW, pp. 225-227

Grading Scheme:

Additional information: