



## *The Hebrew University of Jerusalem*

### *Syllabus*

## **GERMAN CIVIL CODE - 62311**

*Last update 04-08-2016*

*HU Credits:* 2

*Degree/Cycle:* 1st degree (Bachelor)

*Responsible Department:* law

*Academic year:* 0

*Semester:* 2nd Semester

*Teaching Languages:* Hebrew

*Campus:* Mt. Scopus

*Course/Module Coordinator:* Katya Assaf

*Coordinator Email:* [katya.assaf@mail.huji.ac.il](mailto:katya.assaf@mail.huji.ac.il)

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

*Teaching Staff:*

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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)

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## *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*

*Fixated and non-fixated 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*

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*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*

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*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*

Course/Module evaluation:

End of year written/oral examination 100 %

Presentation 0 %

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*Participation in Tutorials 0 %*  
*Project work 0 %*  
*Assignments 0 %*  
*Reports 0 %*  
*Research project 0 %*  
*Quizzes 0 %*  
*Other 0 %*

*Additional information:*