

TRANSNATIONAL ASPECTS OF LAW

PROGRAM DESCRIPTION

5th-10th August 2019



ELTE
BUDAPEST
SUMMER
UNIVERSITY



5th August

One-day seminar by Dr. Balázs Fekete

associate professor

Center for Theory of Law and Society

Course: Comparative Legal Studies as Tool for Understanding Global Legal Processes

Course description:

The boundaries of national legal orders have more and more been blurring in these years. No domestic legislator has a privilege to determine many internal legal provisions in an exclusive manner any more. Public international law norms, internal codes of multinational enterprises, international business practices, compulsory legal provisions backed by supranational organs all do influence domestic legal orders and propel the process of 'legal globalization'. This new age of legal interactions needs new scholarly tools for a better understanding. Needless to say that comparative legal studies offer many novel way of study for these new phenomena. This one-day seminar is dedicated to study some of these new approaches in an interactive way.

Each session will start with (i.) an introductory discussion; it will be followed by (ii.) a 40 mins presentation by the teacher; and, the class will be closed with (iii.) an in-depth discussion based on group work or on individual assignments.

1. Session One – What's new around comparative law in these days?

Introductory discussion: What is comparative law? What is the difference between comparative law and comparative legal studies?

Presentation: new contemporary approaches in comparative law; the success of functional comparison (Trento Project, Ius Commune Casebooks); the emergence of a cultural approach in comparative law; the influence of post-modern thinking on comparative law, 'numerical comparative law' as a new attitude.

In-depth discussion: advantages and disadvantages of culturalism in comparative law

(discussion and group reading assignments will be based on Geoffrey Samuel: *An Introduction to Comparative Law Theory and Method*. Oxford, Hart, 2014. 108-120. (Hermeneutical Method))

2. Session Two: The issue of legal transplants

Introductory discussion: Americanization of Civil Law countries? If so, how does this happen? Are there any counter-arguments?

Presentation: the concept of legal transplants; variants of legal transplants and taxonomy of this rich variety; the case of Code-Civil in the Arab World; how to assess a legal transplant, what is success as for a legal transplant

In-depth discussion: the complex issue of mixed legal systems, do they exist at all?

(discussion and group reading assignments will be based on Mathias Siems: *Comparative Law*. Cambridge, Cambridge University Press, 2014. 85-94. (Disregard of hybrids))

3. Session Three – A case study: the effects of EU law on private relationships

Introductory discussion: The European Union: more than a simple political power centre? What kind of impact had Community Law and European Union Law on the everyday relationship of the citizen?

Presentation: the relationship between EU law and private law: introductory remarks; the relevance of terminology, direct horizontal effect and indirect horizontal effect; the issues of spill-over effects

In-depth discussion: equality in practice: indirect effects of the principle of non-discrimination over national laws

(discussion and group reading assignments will be based on Carla Sieburgh: The Principle of Non-Discrimination. In: Arthur Hartkamp, Carla Siebrugh, and Wouter Devroe (eds.): Cases, Materials and Text on European Law and Private Law. Oxford, Hart, 2017. 288-326.)

6th August

Lecturer: Dr. István Erdős

assistant professor

Department of Private International Law and European Economic Law

erdosistvan@ajk.elte.hu

Course: International commercial arbitration

Course description:

The course covers the different aspects of solving international commercial disputes through arbitration. After a basic introduction to the concept of international commercial arbitration, the students will have the chance to learn about the main issues regarding arbitration agreements, arbitral procedures and arbitral awards. The course will be practice oriented so it will be centered around the practical aspects of arbitration focusing on the crucial questions.

Course outline:

Introduction to the concept of international commercial arbitration

Arbitration agreement

Arbitrators

Arbitral proceeding

Arbitral awards

Recognition and enforcement

7th August

Lecturer: Dr. Sára Hungler
assistant professor
Department of Labour Law and Social Law
hungler@ajk.elte.hu

Course: Equal Treatment in European Labour Law

Course description:

Labour law in general and its family-related regulations in special are crucial for individuals in a globalised world and inherently connected to the free movement of persons within the European Union. This course aims to give an overview on the equal treatment aspects of European labour law. Apart from the general introduction of the topic two specific issues will be closely examined: equal payment, which is generally considered as a success story in harmonisation, and family leave systems, where national legislations are rather diverse. The initiative of European Pillar of Social Rights (EPSR) makes this topic very timely and suitable for a course in transnational legal issues. Students are required to do their own research in specific questions assigned to them prior to the course and present their findings to the group.

1: Introduction: the socio-legal background of equal treatment in labour law, relevant sources of law, regulatory issues under the EPSR

2: Equal payment: brief national presentations by students based on the assigned topics

3: Group discussion: analysis of the findings, conclusions

8th August

Lecturer: Dr. Éva Lukács Gellérné

assistant professor

Department of Private International Law and European Economic Law

gellernelukacs.eva@ajk.elte.hu

Course: Free movement of persons – distinct issues

Course description:

The course focuses on three topics: EU enlargement in the Western Balkan, free movement of health professionals and the issue of indexation of family benefits for mobile people.

Non-EU member Western Balkan countries aspire to join the EU which is a genuine condition hence they are surrounded by EU countries and they are dedicated to democratise within this framework. Free movement of persons is one of the most significant symbols of the EU which signals its integrity and unity. That is why opening the negotiation chapter on free movement marks a historic point in the accession process, too. The article sheds light on the general framework of negotiations and the general absorption capacity of Western Balkan states with a focus on labour market situation and push factors of migration. Also the state of affairs in the realm of legal and institutional approximation requirements is tackled upon, including issues of employment and social security. The article wishes to contribute to a better understanding of the underlying challenges in this field driven by the conviction that the historic window of opportunities is there for the region to advance on the European path marked by peace and progress.

Free movement of patients and health professionals will be presented by Dr. Réka Kovács while the case-study will focus on the common evaluation of a recent case adjudicated by the ECJ (Case C-322/17 Bogatu on indexation of family benefits), presented by Dr. Csenge Merkel.

9th August

Lecturer: Dr. István Ambrus

assistant professor

Department of Criminal Law

ambrus.istvan@ajk.elte.hu

Course: Transnational Aspects of Criminal Law

Course description:

At the end of the course students should be able to:

- understand and explain basic principles of international and European criminal law;
- make reasoned decisions about international and European criminal liability and human rights
- make deductions based on acquired knowledge of the international criminal legislation;
- work with information on occurred criminal cases;
- interpret legal decisions in criminal procedure.

Course schedule:

1. Definition and historical background of international criminal law
2. Sources and basic principles of international criminal law
3. Human rights and criminal law
4. Development of EU criminal law
5. The *ne bis in idem* principle in the interpretation of the European Court of Human Rights
6. The *ne bis in idem* principle in the interpretation of the Court of Justice of the European Union.

10th August

One-day trip to Lake Balaton by bus



Benedictine Tihany Abbey

Lake Balaton is the largest lake in Central Europe, sometimes referred to as the 'Hungarian Sea'. It is 78 km long and from 3 to 14 km wide. One of the biggest tourist attractions of the country, most of the Hungarians spend the summer holiday in one of the towns by the lake. On Saturday you will have the chance to visit Tihany and Balatonfüred, which are the main highlights in the region.

For more information visit our website:

www.elte.hu/en/elte-budapest-summer-university