

INTRODUCTION TO TRANSNATIONAL LAW

Dr. Joasia Luzak

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Course objective:

The aim of the course is to introduce the concepts and methods that make up transnational legal studies. Selected aspects of comparative, international, and global law will be studied not only on the basis of theoretical readings, but also through practical examples and case studies drawn from very different legal disciplines. First classes are devoted to a general presentation of the components of transnational law and its issues, e.g., multilingualism. Thereafter, three main topics will be analysed from both a theoretical and a practical perspective: (1) dispute settlement in a globalized market on an example of the WTO dispute settlement system; (2) jurisdiction issues in transnational conflicts – e.g., what court has jurisdiction or what law applies in a transnational conflict; and (3) transborder sales law – through the discussion of such regulatory measures as the CISG (Vienna Sales Convention), the UCC (Uniform Commercial Code) and the CESL (Common European Sales Law).

Course requirements:

Prerequisite knowledge: Some knowledge of aspects of international law or international contracting is recommended.

Attendance: Per the Law Center's attendance policy, students who miss more than one class may be dropped. Please plan to arrive for each class on time.

Class participation: For the class to proceed in optimum fashion, student preparation and participation are necessary. Grades may be adjusted upward or downward by one increment (e.g., from B to B+ or B-) based on class participation.

Cell phones/pagers: Please set to vibrate/silent mode for all classes.

Examination and grading: Grading will be based on a final examination (taking place on Friday 10 January), modified if appropriate on the basis of class participation as indicated above.

Course plan and reading materials per class:

NOTE: Readings are set forth below in the manner in which it is anticipated they will be covered. The readings for each class after the first will be announced in the preceding class; readings for each class will also be posted in advance on the BB. Readings are subject to change.

THURSDAY 2 JANUARY

CLASS 1

Introduction to transnational law. What is transnational law?

Reading material:

Peer Zumbansen, 'Transnational Law', CLPE Research Paper 09/2008, vol. 04 no. 02, 2008

Roger Cotterrell, 'What Is Transnational Law?', Law & Social Inquiry, vol. 37, issue 2, Spring 2012

CLASS 2

Limits of transnational law: the Babel of languages.

Reading material:

Theodor Schilling, 'Beyond Multilingualism: On Different Approaches to the Handling of Diverging Language Versions of a Community Law', European Law Journal, vol. 16, no. 1, January 2010, pp. 47-66

FRIDAY 3 JANUARY

CLASS 3

Introduction to comparative law. Common vs. Civil Law: two different paths leading to the same goal.

Reading material:

Caslav Pejovic, 'Civil Law and Common Law: Two Different Paths Leading to the Same Goal', 32 Victoria U. Wellington L. Rev. 812 2001

Pierre A. Karrer, 'The Civil Law and Common Law Divide', Dispute Resolution Journal, February/April 2008

CLASS 4

101 in comparative research.

Reading material:

Rodolfo Sacco, excerpt 'Legal Formants: A Dynamic Approach to Comparative Law', 39 Am. J. Comp. L. 1 1991

David W. Kennedy, excerpt 'The Politics and Methods of Comparative Law', from: "Comparative Legal Studies; Traditions and Transitions", P. Legrand, R. Munday (eds.), Cambridge University Press, 2003

SATURDAY 4 JANUARY

CLASS 5

Globalized market: WTO dispute settlement system.

Reading material:

Barbara Marchetti, 'The WTO Dispute Settlement System: Administration, Court or Tertium Genus?', 32 Suffolk Transnational Law Review 567, 2009

CLASS 6

Globalized market: due process in the EU-US beef hormone dispute case.

Reading material:

Case WT/DS320/AB/R from 16 October 2008 – read only section V
(http://www.wto.org/english/tratop_e/dispu_e/ab_reports_e.htm)

MONDAY 6 JANUARY

CLASS 7

Choice of court in Brussels I. Transnational conflict: which court has jurisdiction?

Reading material:

Regulation Brussels I (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001R0044:EN:NOT>)

Michael Bogdan - excerpt from: 'Concise Introduction to EU Private International Law', Europa Law Publishing, 2011

CLASS 8

All roads lead to Rome I. Transnational conflict: which law applies?

Reading material:

Regulation Rome I (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:177:0006:0006:en:PDF>)

Alan Reed – ‘The Rome I Regulation and rapprochement of Anglo-American choice of law in contract: a heralded triumph of pragmatism over theory’ – abstract, 23 Fla. J. Int’l L. 359 2011

TUESDAY 7 JANUARY

CLASS 9

Quo vadis, Brussels I? Transnational conflict: recognition and enforcement of judgments

Reading material:

Regulation Brussels I (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001R0044:EN:NOT>)

Michael Bogdan – excerpt from: ‘Concise Introduction to EU Private International Law’, Europa Law Publishing, 2011

CLASS 10

Transnational conflict – on judicial review.

Reading material:

Takis Tridimas – ‘Knocking on Heaven’s Door: Fragmentation, Efficiency and Defiance in the Preliminary Reference Procedure’, Common Market Law Review, vol. 40, 2003

WEDNESDAY 8 JANUARY

CLASS 11

Transborder Sales Law. Understanding the Vienna Sales Convention (CISG).

Reading material:

Joseph Lookofsky – excerpt from: ‘Understanding the CISG’, Kluwer Law International, 2012

CLASS 12

Transborder Sales Law. The Common European Sales Law (CESL) Rises.

Reading material:

S. Whittaker, ‘The Proposed ‘Common European Sales Law’: Legal Framework and the Agreement of the Parties’, The Modern Law Review, vol. 75 (4), 2012

THURSDAY 9 JANUARY

CLASSES 13-14

The Curious Case of Transborder Sales Law. Comparison of CESL, CISG, and the Uniform Commercial Code.

Reading material:

Larry A. DiMatteo, 'The Curious Case of Transborder Sales Law: A Comparative Analysis of CESL, CISG, and the UCC', from: "CISG vs Regional Sales Law Unification", U. Magnus (ed.), Munich: Sellier European Law Publishers, 2012

Ulrich Magnus, 'CISG vs. CESL', from: "CISG vs Regional Sales Law Unification", U. Magnus (ed.), Munich: Sellier European Law Publishers, 2012