

## **Comparative Private Law – University of Zurich – Autumn Term 2018**

*Dr. Nataša Hadžimanović*

*Former Senior Research Fellow of the Max-Planck-Institute for Comparative and International Private*

*Law in Hamburg, Germany*

*Postdoctoral Fellow of the University of Lucerne, Switzerland Lecturer for Comparative Pri-*

*vate Law at the University of Zurich, Switzerland*

### **Introduction Into Comparative Private Law**

- I. COMPARATIVE LAW AS A FAIRLY YOUNG DISCIPLINE**
  - A. From Roman Law to Codification and Reception**
  - B. Stages of Comparative Research**
    - 1. Comparative Legal Research as a Substitute for the *ius commune***
    - 2. Country-specific Research and its Systematization ("Macro-comparison")**
    - 3. Comparison of Particular Areas of the Law ("Micro-comparison")**
    - 4. Functionalist Approach to Comparative Law**
    - 5. Comparative Law as a Source of Inspiration to Legislatures Around the Globe**
    - 6. Comparative Law Research as a Collective Undertaking to Draft Common Principles**
- II. COMPARATIVE LAW COMPETING WITH OTHER METHODS**
  - A. Legal Dogmatics**
  - B. Economic Theory**
  - C. Comparative Law and Its Imponderabilities**
- III. (GLOBALIZED) NEEDS AS A MOTOR FOR LEGAL DEVELOPMENT FOCUSING ON COMPARATIVE LAW**
- IV. WHO NEEDS COMPARATIVE LAW?**
  - A. Demands for Comparative Law by Academia**

**B. Demands for Comparative Law by the Legal Professions**

**C. Demands for Comparative Law by Legislatures**

**D. Demands for Comparative Law by Unification Agencies**

**E. International Organizations and Institutions as Demanders/Producers of a Kind of "Living Comparisons of Laws"**

**V. RECOMMENDED LITERATURE**

1. Basedow, Jürgen, Comparative Law and its Clients, *The American Journal of Comparative Law*, Vol. 62, 2014, pp. 821-857; Max Planck Private Law Research Paper No. 14/2. Available at SSRN: <https://ssrn.com/abstract=2391171>
2. Glenn, H. Patrick, Comparative Legal Families and Comparative Legal Traditions, in: Mathias Reimann/Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, pp. 422-438
3. Graziadei, Michele, Comparative Law as the Study of Transplants and Receptions, in: Mathias Reimann/Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, pp. 441-474
4. Legrand, Pierre, The Impossibility of 'Legal Transplants', *Maastricht Journal of European and Comparative Law*, Vol. 4, 1997, pp. 111-125
5. Mattei, Ugo, Three Patterns of Law: Taxonomy and Change in the World's Legal Systems, *The American Journal of Comparative Law*, Vol. 45, 1997, pp. 5-44
6. Michaels, Ralf, The Functional Method of Comparative Law, in: Mathias Reimann/Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, pp. 340-382
7. Muir Watt, Horatia, Globalization and Comparative Law, in: Mathias Reimann/Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, pp. 579-608
8. Pargendler, Mariana, The Rise and Decline of Legal Families, *The American Journal of Comparative Law*, Vol. 60, 2012, pp. 1043-1074
9. Smits, Jan M., Comparative Law and its Influence on National Legal Systems, in: Mathias Reimann/Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, pp. 514-538
10. Teubner, Gunther, Legal Irritants: Good Faith in British Law or How Unifying Law Ends up in New Divergences, *The Modern Law Review*, Vol. 61, 1998, pp. 11-32
11. Zimmermann, Reinhard, Comparative Law and the Europeanization of Private Law, in: Mathias Reimann/Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, pp. 540-577