

Comparative Law: Function and Method (B001807)

Course size *(nominal values; actual values may depend on programme)*

Credits 3.0

Study time 90 h

Course offerings in academic year 2024-2025

B (semester 1)

English

Gent

Lecturers in academic year 2024-2025

Cercel, Cosmin

RE21

lecturer-in-charge

Offered in the following programmes in 2024-2025

Master of Laws in International and European Law (main subject International and National Legal Orders)
Exchange Programme in Law

crdts

offering

3

B

3

B

Teaching languages

English

Keywords

--- comparative law, law and culture, law and economics, legal history, legal theory, legal pluralism, methodology of comparative law, ---

Position of the course

--- In this module we shall reflect on the role of comparative law and comparative legal theory within the study and practice of the law. The module comprises 7 sessions, each designed to tackle the ways in which we can analyse law comparatively, by taking into account the central theoretical debates within the field: the historical origins of comparative law; the classical approaches and methods in legal comparison as well as novel critical, and alternative models of legal comparison. Students are invited to participate actively and to reflect critically on the limits and possibility of comparative analysis in law.---

Contents

- 1. How do we define law for the purposes of comparison?
- 2. The origins and history of legal comparison;
- 3. Main approaches to legal comparison
- 4. Law, Culture and the Humanities
- 5. Legal Transplants
- 6. Generic law: insights from law and economics
- 7. What is an authentic comparison? ---

Initial competences

- 1. Basic knowledge of the structure, system, principles and basic rules of the multilayered (internal, international and European) legal order
- 2. Knowledge of and insight in the historic background of the law
- 3. Knowledge of and insight in the cultural and philosophic foundations of the law
- 4. Insight in the relevance of economic, social, social-psychological and political factors that influence, shape and support the law
- 5. Knowledge of the methods of legal research and legal practice
- 6. Basic knowledge of the most important branches of national positive law
- 7. Knowledge of and insight in the use of the formal sources of the law and their hierarchy in national law

Final competences

- 1 Understand when and why a comparative analysis can be a useful research method
- 2 Having knowledge of and insight in the methodology of comparative law
- 3 Insight in the relativity of the specific legal mechanisms, concepts and principles as found in one's national legal system, and realization that alternatives are possible and do exist
- 4 Respect for other cultures and diversity within the field of law
- 5 Understanding the historical construction of the law

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

This course unit cannot be taken via an exam contract

Teaching methods

Lecture, Independent work

Extra information on the teaching methods

--- Lectures, class discussions and self-study, discussion about prepared texts in class. ---

Study material

None

References

Course content-related study coaching

Assessment moments

end-of-term assessment

Examination methods in case of periodic assessment during the first examination period

Examination methods in case of periodic assessment during the second examination period

Examination methods in case of permanent assessment

Possibilities of retake in case of permanent assessment

not applicable

Extra information on the examination methods

--- A written essay of 8 pages to be handed in before the end of the evaluation period in January. The essay titles will be released at the latest one month in advance of the submission date ---

Calculation of the examination mark

--- 100% written essay---

Facilities for Working Students

--- An introductory evening session at the beginning of the semester and, if requested by the students, an evening online session at the end of the semester discussing student questions.---