

UiO Department of Private Law University of Oslo

Comparative Private Law

Introduction



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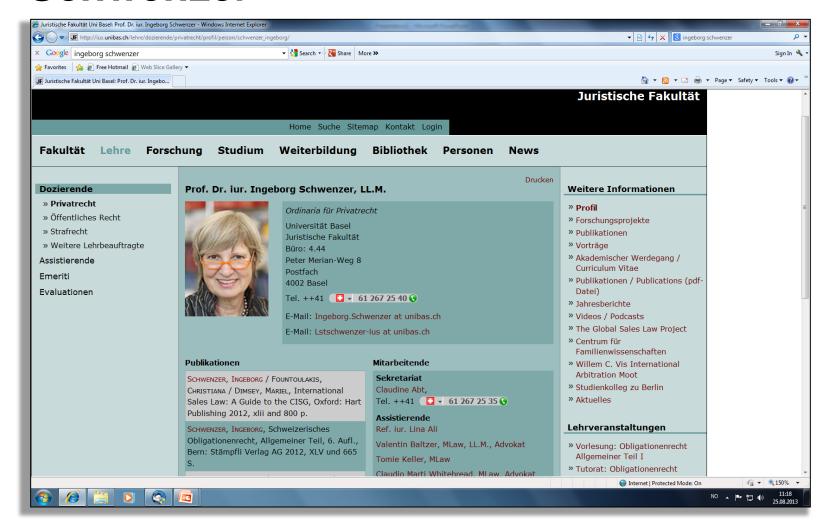
WELCOME!

Herman Bruserud

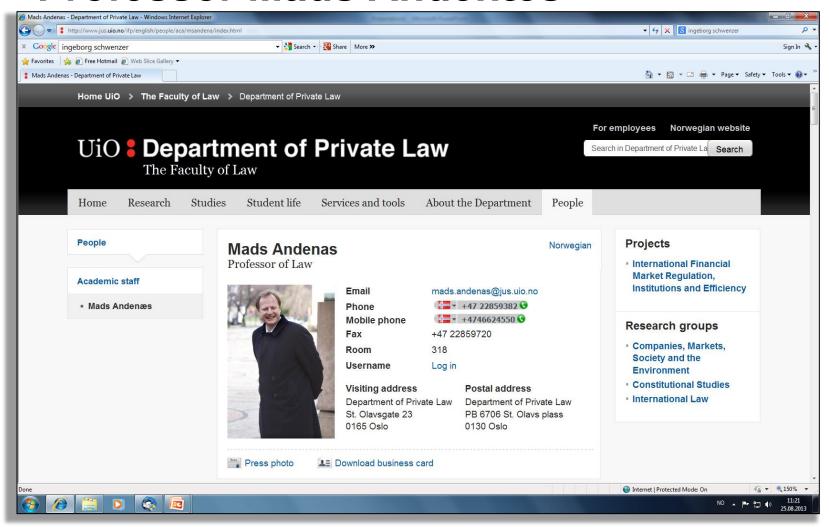


- Cand. jur. 2002 (UoO), Ph.D 2010 (UoO) on thesis on contract law
- Associate lawyer in the law firm Haavind AS, 2002 – 2004
- Research fellow (UoO), 2004 2008
- Lawyer in the law firm Kluge DA, 2008 2011
- Senior advicer in the Legislation Department in The Ministry of Justice, 2011 – 2012
- Associate professor at DoPL (UoO) august 2012 –

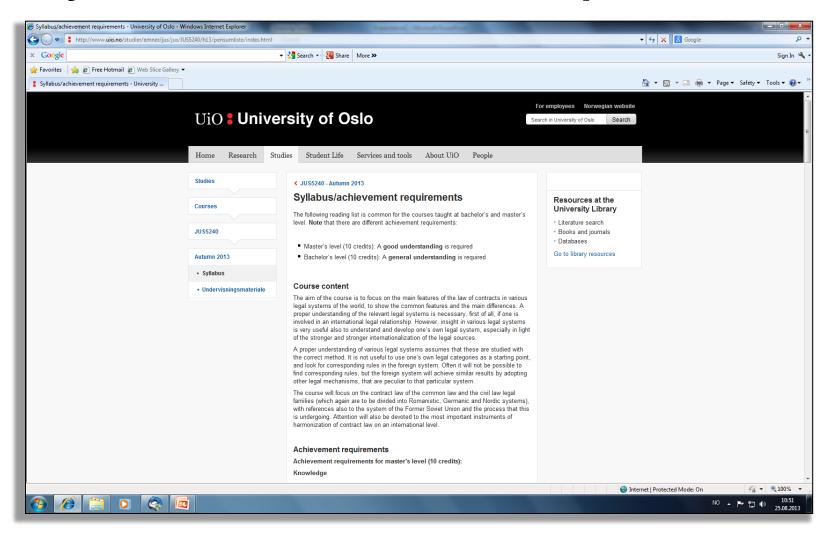
The Main Lecturer – Professor Schwenzer



Responsible for the Course – Professor Mads Andenæs



Syllabus / Achievement requirements



Syllabus / Achievement requirements

 Be aware of different requirements for master's level and bachelor's level

Reading List

With web links and other features that may be helpful.

- Cordero-Moss, G.: Lectures on Comparative Law (160 pages) (to be found in the bookstore Akademika published in "Stensilserien for Institutt for Privatrett-nr 166 IfP " (160 pp)
- M Andenas and D Fairgrieve, 'There is A World Elsewhere' Lord Bingham and Comparative Law in M Andenas and D Fairgrieve (eds) Tom Bingham and the Transformation of the Law (Oxford University Press 2009), 402 (Available as ebook from the University Library by using "BIBSYS ASK" online-system and on http://works.bepress.com/mads_andenas/5/)
- Sacco, R.: Legal Formants: A Dynamic Approach to Comparative Law, in 39
 American Journal of Comparative Law (1991), pages 1-34,343-402 (Available from the University Library by using "BIBSYS ASK" online-system)
- Sacco, R.: One Hundred Years of Comparative Law, in 75 Tulane Law Review (2001) 1159-1176 (Available from the University Library by using "BIBSYS ASK" online-system)

Reading List

- Sir Basil Markesinis, Jørg Fedtke, Engaging With Foreign Law (Hart Publishing, Oxford 2009, Comparative Law in Commercial Practice, Ch 10, ISBN-10: 1841139475) p 323-350 (Available as ebook from the University Library by using "BIBSYS ASK" online-system).
- Cordero-Moss, G.: International Commercial Law, Institute of Private Law, Oslo 2010, pages 101-205 (to be found in the bookstore Akademika published in "Stensilserien for Institutt for Privatrett"/"copy series from the Institute of Private Law" no 185)
- Kåre Lilleholt, «European Private Law: Unification, Harmonisation or Coordination», i Roger Brownsword, Hans-W. Micklitz, Leone Niglia and Stephen Weatherill (eds.), *The Foundations of European Private Law*, Oxford 2011, s. 353–361.
- Hans-W. Micklitz and Norbert Reich 'The Commission Proposal for a
 "Regulation on a Common European Sales Law (CESL)" Too Broad or Not
 Broad Enough?', EUI Working Paper LAW 2012/04.
 http://cadmus.eui.eu/bitstream/handle/1814/20485/LAW_2012_04_ERPL_03.pdf?sequence=3

Supplementary Reading

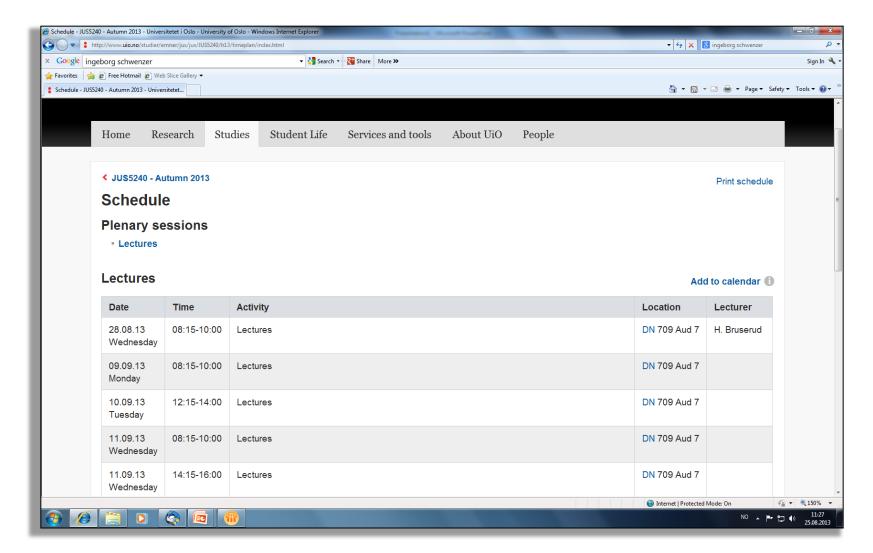
- Principles, Definitions and Model Rules of European Private Law, Draft
 Common Frame of Reference, DCFR See also:
 http://ec.europa.eu/justice/policies/civil/policies/civil/intro_en.htm
- Proposal for EU Regulation on Common sales law with other materials on http://ec.europa.eu/justice/newsroom/news/20111011_en.htm
- The EU Consumer Rights Directive, <u>http://register.consilium.europa.eu/pdf/en/11/pe00/pe00026.en11.pdf</u>
- Sir Basil Markesinis, Jørg Fedtke, Engaging With Foreign Law (Hart Publishing, Oxford 2009, ISBN-10: 1841139475). (Available as ebook from the University Library by using "BIBSYS ASK" online-system)
- Vernon Valentine Palmer "From Lerotholi to Lando: Some Examples of Comparative Law Methodology" 2004 4 Global Jurist Frontiers, Issue 2.
- Antonina Bakardjieva Engelbrekt. "15. Toward an institutional approach to comparative economic law?" Antonina Bakardjieva Engelbrekt, Joakim Nergelius (eds) New Directions In Comparative Law (2010) 213.

Supplementary Reading

- Moss, G.C.: Contract or Licence? Regulation of Petroleum Investment in Russia and Foreign legal Advice, in <u>Journal of Energy & Natural Resources</u> <u>Law</u>, 1998, pages 186-199
- Moss, G.C.: INTERNATIONAL CONTRACTS BETWEEN COMMON LAW AND CIVIL LAW: IS NON-STATE LAW TO BE PREFERRED? THE DIFFICULTY OF INTERPRETING LEGAL STANDARDS SUCH AS GOOD FAITH, Global Jurist: Vol. 7: Iss. 1 (Advances), Article 3 pp.1-38
- Schulze, R. (ed), "New Features in Contract Law", Sellier European Law Publishers, 2007

Supplementary Reading

- Introduction to the Principles of European Contract Law, with further bibliographic references: http://www.cisg.law.pace.edu/cisg/text/peclintro.html
- UNIDROIT Principles of International Commercial Contracts, with further bibliographic references: http://www.unidroit.org/english/principles/contracts/main.htm
- Vogenauer, S., Weatherill, S., The Harmonisation of European Contract Law, Studies of the Oxford Institute of European and Comparative Law, 2006
- Wilhelmsson, T., Paunio, E., Pohjolainen, A. (eds), "Private Law and the Many Cultures of Europe", Kluwer Law International, 2007
- Zimmermann, M., Reimann, The Oxford Handbook of Comparative Law, Oxford University Press, 2006
- Zweigert, K. and H. Kötz: Introduction to Comparative Law, 3rd ed Clarendon Press, Oxford 1998: Parts B (except chapter V and VI) and C (ca 430 pages).

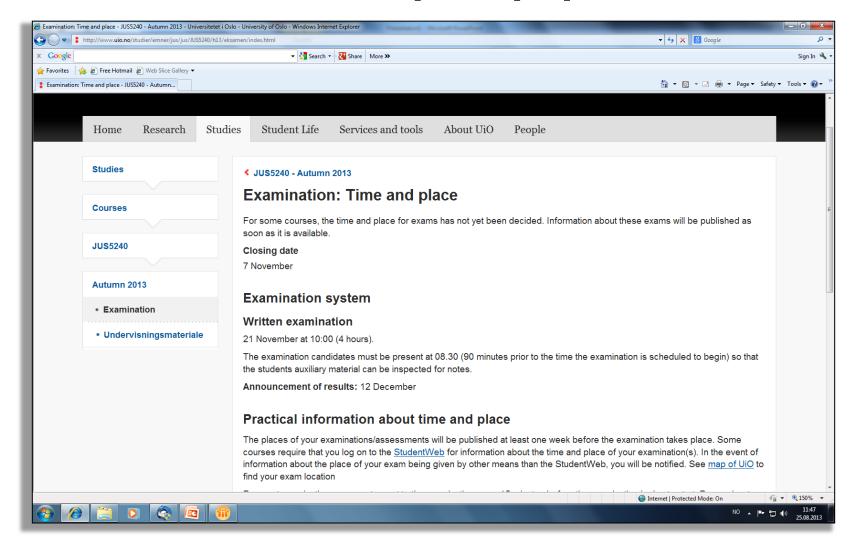


- 1. Introduction (Bruserud)
- 2. Aims and Methods of Comparative Law (Schwenzer)
- 3. Overview of Legal Families Legal Transplants (Schwenzer)
- 4. Remedies for Breach of Contract –
 General and Specific Performance (Schwenzer)

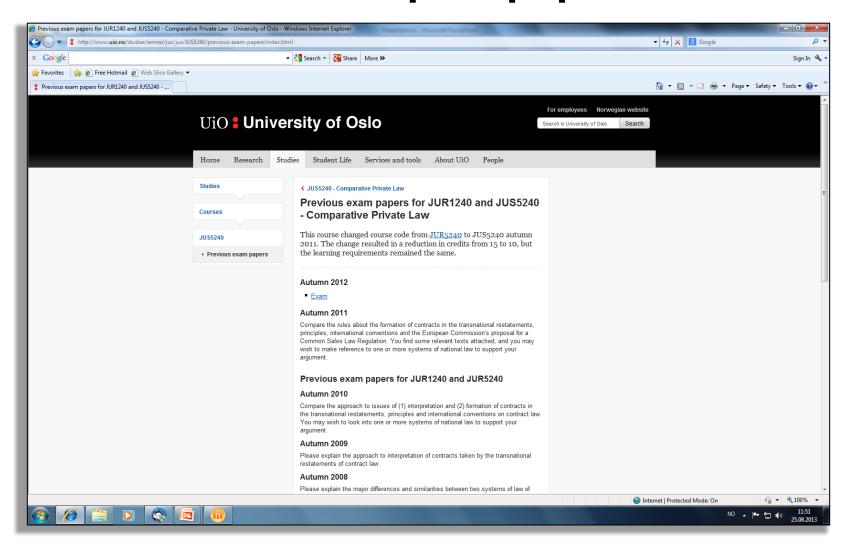
- 5. Regional and Global Unification of Contract Law (Schwenzer)
- 6. Remedies for Breach of Contract Avoidance (Schwenzer)
- 7. Remedies for Breach of Contract Damages (Schwenzer)
- 8. Formation of Contracts (Bruserud)
- 9. Interpretation, Reasonableness and Good Faith (Bruserud)

- 10. Interpretation, Reasonableness and Good Faith cont. (Bruserud)
- 11. Common European Sales Law (CESL)
 (Andenæs)

Examination and past papers



Examination and past papers



Examination and past papers

- A paper will be posted on the web site
 - May be handed in and will be commented
 - More information to come

- United Nations Convention on Contracts for the International Sale of Goods 1980 (CISG)
 - Convention of April 11th 1980
 - Transnational sales between parties in nations which have acceded the convention
 - 79 parties
 - Norway
 - Is not bound by Part II (Formation of contracts) will probably be changed in the near future
 - Nordic sales contracts

- UNIDROIT Principles of International Commercial Contracts (UNIDROIT Principles / UPICC)
 - General model rules for international commercial contracts
 - Current version from 2010
 - Prepared by academics
 - Might be utilized by the parties
 - Expression of common international contract law principles?

- Principles of European Contract Law (PECL)
 - General model rules for contracts
 - From 1995/1999/2002
 - Prepared by academics ("Lando Commission")
 - Might be utilized by the parties
 - Expression of common European contract law principles?

- Draft Common Frame of Reference (DCFR)
 - -2009
 - Study Group on a European Civil Code (van Bar)
 - + Aquis Group
 - Black letter rules
 - Comments
 - Comparative notes

- Draft Common Frame of Reference (DCFR) cont.
 - Contents
 - Book I General provisions
 - Book II Contracts and other juridical acts
 - Book III Obligations and corresponding rights
 - Book IV Specific contracts and the rights and obligations arising from them
 - Book V Benevolent intervention in another's affairs

- Draft Common Frame of Reference (DCFR) cont.
 - Contents cont.
 - Book VI Non-contractual liability arising out of damage caused to another
 - Book VII Unjustified enrichment
 - Book VIII Acquisition and loss of ownership in movables
 - Book IX Proprietary security rights in movable assets
 - Book X Trusts

- Common European Sales Law (CESL)
 - Proposal for regulation: COM(2011) 635 final
 - An optional "2nd regime" for cross-border contracts
 - Scope: sales of goods, supply of digital content, related services
 - Its fate has not yet been decided on a European level

- Common European Sales Law (CESL) cont.
 - Application (as the proposal stands now)
 - Chosen by the parties
 - Cross-border contract (unless otherwise decided)
 - At least one party in a Member State
 - Contract for the sale of goods, for the supply of digital content, related services
 - Trader and consumer or SMB (unless otherwise decided)