



UiO : **Department of Private Law**
University of Oslo

Comparative Private Law

Introduction



Associate Professor Ph.D. Herman Bruserud

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

Juristische Fakultät Uni Basel: Prof. Dr. iur. Ingeborg Schwenzer - Windows Internet Explorer

http://ius.unibas.ch/lehre/dozierende/privatrecht/profil/person/schwenzer_ingeborg/

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- » Öffentliches Recht
- » Strafrecht
- » Weitere Lehrbeauftragte

Assistierende



Emeriti

Evaluationen

Prof. Dr. iur. Ingeborg Schwenzer, LL.M. Drucken



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

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Publikationen

SCHWENZER, INGEBORG / FOUNTOLAKIS, CHRISTIANA / DIMSEY, MARIEL, International Sales Law: A Guide to the CISG, Oxford: Hart Publishing 2012, xlii and 800 p.

SCHWENZER, INGEBORG, Schweizerisches Obligationenrecht, Allgemeiner Teil, 6. Aufl., Bern: Stämpfli Verlag AG 2012, XLV und 665 S.

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Weitere Informationen

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- » Centrum für Familienwissenschaften
- » Willem C. Vis International Arbitration Moot
- » Studienkolleg zu Berlin
- » Aktuelles

Lehrveranstaltungen

- » Vorlesung: Obligationenrecht Allgemeiner Teil I
- » Tutorat: Obligationenrecht

Internet | Protected Mode: On

11:18
25.08.2013

Responsible for the Course – Professor Mads Andenæs

The screenshot shows a Windows Internet Explorer browser window displaying the profile page for Professor Mads Andenæs. The browser's address bar shows the URL <http://www.jus.uio.no/ftp/english/people/aca/msandena/index.html>. The page title is "Mads Andenas - Department of Private Law". The browser's search bar contains "ingeborg schwenzer".

The website header includes the navigation path: Home UiO > The Faculty of Law > Department of Private Law. It also features a search bar with the text "Search in Department of Private La" and a "Search" button. The main header displays "UiO : Department of Private Law" and "The Faculty of Law".

The navigation menu includes: Home, Research, Studies, Student life, Services and tools, About the Department, and People. The "People" menu is currently selected.

The profile page for Mads Andenas, Professor of Law, includes the following information:

- People** (category)
- Academic staff** (category)
- Mads Andenæs** (profile name)
- Norwegian** (language)
- Projects**
 - International Financial Market Regulation, Institutions and Efficiency
- Research groups**
 - Companies, Markets, Society and the Environment
 - Constitutional Studies
 - International Law

Contact and address information:

- Email:** mads.andenas@jus.uio.no
- Phone:** +47 22859382
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- Fax:** +47 22859720
- Room:** 318
- Username:** [Log in](#)
- Visiting address:** Department of Private Law, St. Olavsgate 23, 0165 Oslo
- Postal address:** Department of Private Law, PB 6706 St. Olavs plass, 0130 Oslo

At the bottom of the profile, there are links for "Press photo" and "Download business card".

The browser's taskbar at the bottom shows the system tray with the date and time: 11:21, 25.08.2013.

Syllabus / Achievement requirements

The screenshot shows a Windows Internet Explorer browser window displaying the University of Oslo website. The address bar shows the URL: <http://www.uio.no/studier/emner/jus/jus/JUS5240/h13/pensumliste/index.html>. The page title is "Syllabus/achievement requirements - University of Oslo".

The website header includes the UiO logo and navigation links: Home, Research, Studies, Student Life, Services and tools, About UiO, People. A search bar is also present.

The main content area is titled "JUS5240 - Autumn 2013" and "Syllabus/achievement requirements". It contains the following text:

The following reading list is common for the courses taught at bachelor's and master's level. **Note** that there are different achievement requirements:

- Master's level (10 credits): A **good understanding** is required
- Bachelor's level (10 credits): A **general understanding** is required

Course content

The aim of the course is to focus on the main features of the law of contracts in various legal systems of the world, to show the common features and the main differences. A proper understanding of the relevant legal systems is necessary, first of all, if one is involved in an international legal relationship. However, insight in various legal systems is very useful also to understand and develop one's own legal system, especially in light of the stronger and stronger internationalization of the legal sources.

A proper understanding of various legal systems assumes that these are studied with the correct method. It is not useful to use one's own legal categories as a starting point, and look for corresponding rules in the foreign system. Often it will not be possible to find corresponding rules, but the foreign system will achieve similar results by adopting other legal mechanisms, that are peculiar to that particular system.

The course will focus on the contract law of the common law and the civil law legal families (which again are to be divided into Romanistic, Germanic and Nordic systems), with references also to the system of the Former Soviet Union and the process that this is undergoing. Attention will also be devoted to the most important instruments of harmonization of contract law on an international level.

Achievement requirements

Achievement requirements for master's level (10 credits):

Knowledge

On the right side of the page, there is a section titled "Resources at the University Library" with links to Literature search, Books and journals, and Databases, and a link to "Go to library resources".

The browser's taskbar at the bottom shows the system tray with the date and time: 10:51 25.08.2013.

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](http://ec.europa.eu/justice/policies/civil/policiescivil/intro_en.htm) See also:
http://ec.europa.eu/justice/policies/civil/policiescivil/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,
<http://register.consilium.europa.eu/pdf/en/11/pe00/pe00026.en11.pdf>
- 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 [Journal of Energy & Natural Resources Law, 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).

Lecture Outline

Schedule - JUS5240 - Autumn 2013 - Universitetet i Oslo - University of Oslo - Windows Internet Explorer

http://www.uio.no/studier/emner/jus/jus/JUS5240/h13/timeplan/index.html

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< JUS5240 - Autumn 2013 [Print schedule](#)

Schedule

Plenary sessions

- Lectures

Lectures [Add to calendar](#)

Date	Time	Activity	Location	Lecturer
28.08.13 Wednesday	08:15-10:00	Lectures	DN 709 Aud 7	H. Bruserud
09.09.13 Monday	08:15-10:00	Lectures	DN 709 Aud 7	
10.09.13 Tuesday	12:15-14:00	Lectures	DN 709 Aud 7	
11.09.13 Wednesday	08:15-10:00	Lectures	DN 709 Aud 7	
11.09.13 Wednesday	14:15-16:00	Lectures	DN 709 Aud 7	

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Lecture Outline

- 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)

Lecture Outline

- 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)

Lecture Outline

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

Examination and past papers

Examination: Time and place - JUS5240 - Autumn 2013 - Universitetet i Oslo - University of Oslo - Windows Internet Explorer

http://www.uio.no/studier/emner/jus/jus/JUS5240/h13/eksamen/index.html

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Studies

Courses

JUS5240

Autumn 2013

- Examination
- Undervisningsmateriale

< JUS5240 - Autumn 2013

Examination: Time and place

For some courses, the time and place for exams has not yet been decided. Information about these exams will be published as soon as it is available.

Closing date
7 November

Examination system

Written examination

21 November at 10:00 (4 hours).

The examination candidates must be present at 08.30 (90 minutes prior to the time the examination is scheduled to begin) so that the students auxiliary material can be inspected for notes.

Announcement of results: 12 December

Practical information about time and place

The places of your examinations/assessments will be published at least one week before the examination takes place. Some courses require that you log on to the [StudentWeb](#) for information about the time and place of your examination(s). In the event of information about the place of your exam being given by other means than the StudentWeb, you will be notified. See [map of UiO](#) to find your exam location

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Examination and past papers

The screenshot shows a Windows Internet Explorer browser window displaying the University of Oslo website. The address bar shows the URL: <http://www.uio.no/studier/emner/jus/jus/JUS5240/previous-exam-papers/index.html>. The page header features the University of Oslo logo and navigation links for Home, Research, Studies, Student Life, Services and tools, About UiO, and People. A search bar is also present.

The main content area is titled "Previous exam papers for JUR1240 and JUS5240 - Comparative Private Law". It includes a sidebar with navigation options: Studies, Courses, and JUS5240 (with a sub-link for Previous exam papers). The main text provides information about the course code change from JUR5240 to JUS5240 in autumn 2011 and lists exam papers for the years 2012, 2011, 2010, 2009, and 2008.

Autumn 2012
▪ [Exam](#)

Autumn 2011
Compare the rules about the formation of contracts in the transnational restatements, principles, international conventions and the European Commission's proposal for a Common Sales Law Regulation. You find some relevant texts attached, and you may wish to make reference to one or more systems of national law to support your argument.

Previous exam papers for JUR1240 and JUR5240

Autumn 2010
Compare the approach to issues of (1) interpretation and (2) formation of contracts in the transnational restatements, principles and international conventions on contract law. You may wish to look into one or more systems of national law to support your argument.

Autumn 2009
Please explain the approach to interpretation of contracts taken by the transnational restatements of contract law.

Autumn 2008
Please explain the major differences and similarities between two systems of law of

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

Introduction to some of the main Regional and International Instruments

- 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

Introduction to some of the main Regional and International Instruments

- 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?

Introduction to some of the main Regional and International Instruments

- 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?

Introduction to some of the main Regional and International Instruments

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

Introduction to some of the main Regional and International Instruments

- 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

Introduction to some of the main Regional and International Instruments

- 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

Introduction to some of the main Regional and International Instruments

- 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

Introduction to some of the main Regional and International Instruments

- 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)