

THE GOVERNMENT OF THE RUSSIAN FEDERATION
Federal State Autonomous Educational Institution
for Higher Learning

THE NATIONAL RESEARCH UNIVERSITY HIGHER SCHOOL OF ECONOMICS

Faculty of Law
Department of Judicial Power

Master Degree Curriculum Year 1
Field of Education 40.04.01. – Jurisprudence
Detailed Field Judicial Power

Level Master Degree

COMPARATIVE CIVIL PROCEDURE
Course Syllabus

Author of the Course / Course Instructor

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Approved at the session of the Department of Judicial Power

Tamara G. Morshakova

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September, 2018 (Protocol N __)

Approved at the Academic Council of Master Program «Lawyer in Justice and Law
Enforcement» session

Tamara Morshakova

Academic Supervisor of Master Program

_____ September __, 2018 (Protocol N __)

Moscow, 2018

COURSE DESCRIPTION

Why to study foreign civil procedure?

This is not an easy question to answer since it is not merely a rhetoric one: although the importance of comparative approach in legal education is not put into doubt today all over the world, relevance and utility of comparative procedural law is not always obvious. Indeed, what is a practical effect of learning peculiarities of different procedural systems for a lawyer educated in a national system who, most likely, will not participate as an attorney in a foreign court proceeding? Does such study imply any practical importance or has just informative value?

The course gives answers to these questions proposing not only information on organization and functioning of foreign procedural systems but paying attention to the fundamental similarities and differences between different procedural models. Students learn to identify common issues for all procedural systems and to analyze the best techniques used for deal with them. These techniques hypothetically may be borrowed to improve the national procedural system.

The course gives an overview of different judicial and procedural systems in the modern world. It covers different aspects of courts' organization, types of procedural systems and forms of judicial (and, to a certain extent, of non-judicial) protection of rights. It begins with a historical analysis of the modern procedural systems evolution that explains major differences in philosophy and technique of civil procedure.

The course will be useful for Russian as well as foreign graduate students having interest in the development of European judicial systems and procedures.

The course is taught in English.

PREREQUISITES

The Course is aimed at students of 1st year of master program or above.

As special prerequisites a general course of civil procedure and judicial power is required.

COURSE OBJECTIVES

The Course main objectives comprise:

- obtaining knowledge allowing to assess in a correct way the legal environment in which the foreign partners of Russian business actors live and act;
- acquiring the skills of professional evolution of a suit perspective in foreign courts and/or commercial arbitration;
- familiarization of students with the main procedural concepts including those unknown in the Russian legal system;
- learning the trends of development of procedural law in the global context.

DISTRIBUTION OF WORKLOAD

Table: Total hours against the self-study (extramural) hours broken down by subject

Item	Subject-Headings	Total hours	In-Class Hours, including		Self-study hours
			Lectures	Seminars	
1.	Subject 1. Comparative approach in civil procedure	7	1	2	4
2.	Subject 2. Modern procedural systems: history, typology and main features	7	1	2	4
3.	Subject 3. The Legal profession in the modern world	12		4	8

4.	Subject 4. Organization of the Courts	8	2	2	4
	Subject 5 . Jurisdiction: main issues (case-study)	12		4	8
3.	Subject 6. Sources of procedural law	8	2	2	4
4.	Subject 7. Commencement of a law suit	8	2	2	4
5.	Subject 8. Proceedings in 1st instance: The Trial and Analogous Processes	8	2	2	4
6.	Subject 9. Evidence and Proof	14	2	4	8

7.	Subject 10. Provisional Measures	6		2	4
8.	Subject 11. Judgments and Res Judicata	14	2	4	8
9.	Subject 12. Appeal	14	2	4	8
	Subject 13. Harmonization of Civil Process: Trends and Prospects	8	2	2	4
	Total:	126	18	36	72

TYPES OF KNOWLEDGE CONTROL

Self-study control:

- Essay on a selected topic as agreed with the Course Instructor (10-12 printed pages (Times New Roman, 14 pt);
- In-betweeners forms: regular tests during seminar classes lasting 15 minutes for checking the level of memorizing key notions.

Intermediate control:

- Exam – graded assessment of the level of acquired knowledge and developed skills during the Course; includes written questions covering syllabus material, i.e. theoretical and practical dimensions (test).

Parameters

Written 60-minute exam (test)

METHOD OF INSTRUCTION

Classes are split into lectures and seminars. Lectures are conducted in the interactive mode with the focus on the feedback from students. Students are expected to get prepared for the upcoming lectures, which enables them to better comprehend the subject matter delivered by the lecturer. Seminars are aimed at combining interactive methods and spontaneous individual or group debates on specified problem areas. Such interactive

tutoring is based on both the prepared and spontaneous modes. Home assignments are intended for reviewing and analyzing international treaties, judgments, textbooks, as well as at preparing to the multitasking format of exercising during in-class teamwork.

LEARNING OUTCOMES

Students must gain knowledge on:

- general structure and principles of civil procedure in the global context;
- main types of procedural systems and their main features and differences between them;
- the main sources, notions and institutes of foreign countries' procedural law;
- the trends of development and harmonization of modern procedural law.

Skills and abilities:

- to assess the perspectives of civil cases examination by foreign courts;
- to give legal analysis of potential legal issues which may arise in course of examination of the case by a foreign jurisdiction;
- to analyze foreign procedural law and case-law;
- to do legal analysis of particular cases and legal conflicts.

Students should gain the following competences:

- ability to work with judicial information (search, evaluate, use information, necessary for fulfillment of academic and professional tasks, from various sources, including application of the systematic approach);
- ability to carry out professional activities in the international environment;
- ability to search, analyze, and work with legally relevant information by using the juridical, comparative and other specific methods,
- ability to describe legal problems and situations in the field of judicial activities and case-law.

CONTENT OF THE COURSE

Subject 1. *Comparative approach in civil procedure*

1. Comparative method in civil procedure: why? Main functions and objectives of comparative studies in law
2. General problems of comparative law and specific problems of comparative procedural law
3. Techniques of comparative method: macrocomparison vs. microcomparison

Reading list

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. ALI/UNIDROIT Principles of Transnational Civil Procedure. Cambridge University Press.
3. Peter Gottwald. Comparative Civil Procedure//Ritsumeikan Law Review. 22-2005.
4. Пучинский В.К. Гражданский процесс зарубежных стран, Под ред. В.В. Безбаха. М.: «Зерцало», 2007.

Optional:

1. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
2. Виноградова Е.А. (Москва) Процессуальное право и правовая культура: XII Международный конгресс по процессуальному праву (Мексика, сентябрь 2003 гг.). - Российский ежегодник гражданского и арбитражного процесса. №2. 2002-2003.
3. Осаке К. Сравнительное правоведение в схемах: Общая и особенная части: Учеб.-практ. Пособие. – М.: Дело, 2000.

Subject 2. *Modern procedural systems: history, typology and main features*

1. Evolution of Western procedural system: historical overview. Roman and German procedure as the basis for modern civil procedure
2. Main types of procedural systems: different approaches. Is the classification «adversarial vs. inquisitorial procedure» still relevant?

3. Common law systems and civil law systems: main features , fundamental similarities and differences. General goal of procedure and different means of achieving it. Written and oral element in procedure as a key difference between procedural systems
4. Structure of proceedings and organization of courts as main distinctions of procedural models. The role of jury trial in categorization of procedural systems

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. M. Cappelletti, Fundamental Guarantees of the parties in Civil Proceedings. General report. – In: Fundamental Guarantees of the parties in Civil Litigation. Studies in National, International and Comparative Law. Prepared at the Request of UNESCO Under the Auspices of the International association of Legal Science. – Milano – Dott. A. Giuffre Editor. Dobbs Ferry, New York – Oceana Publications, Inc. 1973. Pp. 661-774.
3. International Encyclopedia of Comparative Law. Vol. XVI. Civil Procedure. Chapter I. Introduction - Policies, Trends and Ideas in Civil Procedure (M. Cappelletti, B. G. Garth). - J.C.B. Mohr (Paul Siebeck), Tubingen, Mouton, The Hague, Paris, Oceana Publications Inc. New York,1987.
4. International Encyclopedia of Comparative Law. Vol. XVI. Civil Procedure. Chapter II. History of Civil Procedure. (B.C. van Caenegem). 19.
5. Гражданский процесс зарубежных стран. Учеб. пособие / Под ред. А.Г. Давтян. М., 2006.

Optional:

1. ALI/UNIDROIT Principles of Transnational Civil Procedure. Cambridge University Press.
2. C.H. van Rhee, Alan Uzelac (eds.). Truth and Efficiency in Civil Litigation: Fundamental Aspects of Fact-finding and Evidence-taking in a Comparative Context (Ius Commune Europaeum). Intersentia, 2012.

3. Alan Uzelac (ed.). *Goals of Civil Justice and Civil Procedure in Contemporary Judicial Systems (Ius Gentium: Comparative Perspectives on Law and Justice)*. Springer, 2014.
4. C.H. van Rhee (ed.). *European Traditions in Civil Procedure*. - Intersentia, Antwerpen, Oxford. 2005.
4. Zuckermann on Civil Procedure: Principles of Practice. 2 ed. London, Sweet&Maxwell.2006.
5. Neil Andrews. *Andrews on Civil Processes*. Intersentia, 2013. Vol. 1. Court Proceedings.
6. Murray. P.L, Sturmer, R. *German Civil Justice*. Carolina Academic Press, 2004.
7. Maleshin, D.Ya. *Russian Style of Civil Procedure*// *Emory International Law Review*, 2007. Vol.21, no. 2. (<http://www.law.msu.ru/node/7344>)
8. Hazard G.C., Taruffo M. *American Civil Procedure*. Yale University Press, New Haven and London.1993.
9. Бернам У. *Правовая система США*. 3-й выпуск. – М.: «Новая юстиция». 2007.

Subject 3. *The Legal profession in the modern world*

1. Education of lawyers in different procedural systems
2. Bar in modern legal worlds: varieties of profession, types of admission and career
3. Judiciary in the modern legal systems. Role and status of judges in modern justice and politics. Main challenges for the judge's activities

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. *Civil litigation in comparative context*. 2nd ed. West Academic Publishing. 2017.
2. Елисеев Н.Г. *Гражданское процессуальное право зарубежных стран*. Учеб. 2-е изд., перераб. и дор. – М.: ТК ВЕЛБИ, Изд-во ПРОСПЕКТ, 2004.

Optional:

1. C.H. van Rhee, Alan Uzelac (eds.). *THE LANDSCAPE OF THE LEGAL PROFESSIONS IN EUROPE AND THE USA: CONTINUITY AND CHANGE* Intersentia, 2011.

2. Moller G. Recent tendencies in the position of the judge. - In: "Procedural Law on the Threshold of a New Millennium". – International Association on Procedural Law. XI World Congress on Procedural Law. 23rd – 28th of August 1999. Universitaat. Wien. General Reports. Pp. 111-129.
3. Fish W. Recent tendencies in the position of the lawyer. - In: "Procedural Law on the Threshold of a New Millennium". – International Association on Procedural Law. XI World Congress on Procedural Law. 23rd – 28th of August 1999. Universitaat. Wien. General Reports. Pp. 199-215.
4. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
5. Geoffrey C. Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London. 1993.
6. Бернам У. Правовая система США. 3-й выпуск. – М.: «Новая юстиция». 2007.

Subject 4. *Organization of the Courts*

1. The role of judicial organization in the classification of procedural systems
2. The importance of instances organization in the modern procedural typology (systems «appeal-appeal», «appeal-cassation», «appeal-revision»)
3. General trends of judicial organization in the modern world (differentiated jurisdiction of 1st instance courts, creation of specialized courts, participation of lay-judges; etc.).
4. Civil law systems: France and Germany
5. Common law systems: UK and USA
6. Constitutional courts and their analogues
7. Supra-national courts and their place in the modern procedural landscape

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. Geeroms Sofie, Foreign Law in Civil Litigation. A Comparative and Functional Analysis. Oxford University Press (Oxford Private International Law Series). 2004.
3. Елисеев Н.Г. Гражданское процессуальное право зарубежных стран. Учеб. 2-е изд., перераб. и дор. – М.: ТК ВЕЛБИ, Изд-во ПРОСПЕКТ, 2004.

4. Кудрявцева Е.В. Гражданское судопроизводство Англии. – М.: Изд. Дом «ГОРОДЕЦ», 2008.

Optional:

1. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
3. Geoffrey C.Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London.1993.
4. Эндрюс Н. Система гражданского процесса Англии. – М.: Инфотропик-Медиа, 2013.
5. Бернам У. Правовая система США. 3-й выпуск. – М.: «Новая юстиция». 2007.
6. Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.

Subject 5. *Jurisdiction: main issues (case-study)*

1. Main approaches to jurisdiction determination: common law systems vs. civil law systems
2. UK approach: tag jurisdiction, inherent jurisdiction; jurisdiction over foreign parties
3. US approach: jurisdiction in rem and in personam
4. Jurisdiction in personam: relevant notions (minimum contacts, reasonableness of jurisdiction).
5. Forum access: forum shopping, Lis Pendens and Forum non conveniens concepts.

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. Елисеев Н.Г. Гражданское процессуальное право зарубежных стран. Учеб. 2-е изд., перераб. и дор. – М.:ТК ВЕЛБИ, Изд-во ПРОСПЕКТ, 2004.

3. Будылин С. Почему они судятся в Лондоне? Компетенция английских судов и исполнение английских судебных решений за рубежом//http://www.roche-duffay.ru/articles/uk_courts.htm (дата обращения - 10.07.2018)

Optional:

1. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Geoffrey C.Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London.1993.
3. Rudolph Schlesinger and Ugo Mattei. Schlesinger's Comparative Law: Cases, Text, Materials, 7th Edition (University Casebooks). 2009.
4. Бернам У. Правовая система США. 3-й выпуск. – М.: «Новая юстиция». 2007.
- 5.

Subject 6. *Sources of procedural law*

1. Hierarchy of procedural law sources: international treaties, European Union law, national law. Case-law of supranational courts (including ECJ and ECtHR) and its importance in the system of procedural law sources.
2. Sources of procedural law in civil law and common law countries. Statutes vs. precedents. Trends of approximation and interdependence of different procedural systems.
3. Domestic level: constitutions, statutes, by-law acts and national courts' case-law .
4. Common law countries: the overview of procedural law sources. England and Wales: unwritten Constitution; modern hierarchy of legal sources. Civil Procedure Rules as an outcome of the Woolf reforms: general characteristics. USA: 51 legal systems. Federal law and law of states.
5. Civil law countries: sources of procedural norms. General characteristic of Code de Procedure civile in France and ZPO in Germany.

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. Елисеев Н.Г. Гражданское процессуальное право зарубежных стран. Учеб. 2-е изд., перераб. и дор. – М.: ТК ВЕЛБИ, Изд-во ПРОСПЕКТ, 2004.

Optional:

1. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Geoffrey C. Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London. 1993.
3. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
4. Бернам У. Правовая система США. 3-й выпуск. – М.: «Новая юстиция». 2007.

Subject 7. Commencement of a law suit

1. Structure of proceedings: common law vs. civil law systems. Pre-trial and trial in common law systems and preparatory phase in civil law systems: different philosophy of procedure.
2. Introductory stage of proceedings: filing a claim, identifying the issues, learning the facts.
3. Fact pleading vs. Notice Pleading: the unique American model and the trends of its development.
4. Initiating a suit: England. Pre-action protocols and Statement of claims and defense
5. American and German commencement of suit
6. Notification of the respondent (service of process)
7. Joinder (aggregation) of parties and claims
8. Learning the facts. Discovery and Disclosure: American vs. English techniques and civil law approaches

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. Кудрявцева Е.В. Гражданское судопроизводство Англии. – М.: Изд. Дом «ГОРОДЕЦ», 2008.

Optional:

1. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
3. Geoffrey C.Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London.1993.
4. Пучинский В.К. Гражданский процесс зарубежных стран, Под ред. В.В. Безбаха. М.: «Зерцало», 2007.
5. Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.

Subject 8. *Proceedings in 1st instance: The Trial and Analogous Processes*

1. The jury in common law systems as a key (historical) factor of different procedural philosophy
2. The role of judge and parties in the proceedings
3. Evidence and presentation of proof

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. Chase O., Cadiet L. “The Culture and Science of Obtaining Information and Proof-Taking” – In: XII World Congress of Procedural Law. Asociacion Internacinal de derecha Procesal, Instituto Mexicana Derecho Procesal. Mexico, septembre 22-26, 2003. Pp. 31-67

3. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
4. Кудрявцева Е.В. Гражданское судопроизводство Англии. – М.: Изд. Дом «ГОРОДЕЦ», 2008.

Optional:

1. Viktoria Harsagi, C.H. van Rhee. Multi-party redres mechanisms in Europe: squeaking mice? Intersentia, 2014.
2. Robert Klonoff. Class actions and Other Multi-Party Litigation in a Nutshell. Nutshells, 2017.
3. C.H .van Rhee. Judicial Case-management and Efficiency in Civil Litigation. Intersentia. 2008.
4. C.H. van Rhee, Alan Uzelac (eds.). Truth and Efficiency in Civil Litigation: Fundamental Aspects of Fact-finding and Evidence-taking in a Comparative Context (Ius Commune Europaeum). Intersentia, 2012.
5. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
6. Russmann H. The challenge of information Society: application of advanced technologies in civil litigation and other procedures. - In: “Procedural Law on the Threshold of a New Millennium”. – International Association on Procedural Law. XI World Congress on Procedural Law. 23rd – 28th of August 1999. Universitaat. Wien. General Reports. Pp. 77 – 110.
- 7.. Michele Taruffo (ed.). Abuse of procedural rights: comparative standards of procedural fairness. Kluwer Law International, 1999.
- 8.. Walker J., Watson G. “ Preliminary and Summary Proceedings: Scope and Importance (Common Law). – On: XII World Congress of Procedural Law. Asociacion Internacilnal de derecha Procesal, Instituto Mexicana Derecho Procesal. Mexico, septembre 22-26, 2003. Pp. 122-144..
- 9.Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.
10. Готвальд П. (Регенсбург, Германия) Гражданский процесс в Германии после реформы 2001 года. Российский ежегодник гражданского и арбитражного процесса.

№4. 2005 /Под ред. докт. юрид.наук, проф. В.В.Яркова. - СПб.: Издательский Дом С.-Петербург. Гос. ун-та, Издательство юридического факультета С.-Петербургского гос. ун-та. – 2006. С. 365-384.

Subject 9. *Evidence and Proof*

1. Types of evidence ; role of testimonies and documents in civil law and common law systems
2. Examination of witnesses: direct and cross-examination
3. Standard of proof: civil law vs. common law countries.
4. Standard of proof: balance of probabilities and preponderance of the evidence. In Re B Children case-study.

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. C.H. van Rhee, Alan Uzelac (eds.). Evidence in contemporary civil procedure. Intersentia, 2015.
3. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.
4. Кудрявцева Е.В. Гражданское судопроизводство Англии. – М.: Изд. Дом «ГОРОДЕЦ», 2008.

Optional:

1. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Медведев И.Г. Письменные доказательства в частном праве России и Франции. Спб, 2004.
3. Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.

Subject 10. *Provisional Measures*

1. Provisional remedies: history and contemporary context . Justification and current problems
2. Provisional measures in transnational litigation
3. Overview of provisional measures in some national systems. «Mareva" injunctions, freezing and search orders

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.

Optional:

1. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Geoffrey C.Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London.1993.

Subject 11. *Judgments and Res Judicata*

1. Types of judgments in modern procedural systems. Final and preliminary judgments
2. Finality and preclusion as key effects of judgments
3. *Res judicata*: main approaches to the concept. Triple-identity criteria in civil law systems. Claim preclusion and Issue estoppel and their variations in common law systems.
4. Scope of the dispute and *res judicata*: common law vs. civil law system

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. «Res Judicata and Arbitration». 2006 / Reports www.ila-hq.org (Committees/ International Commercial Arbitration Committee /Reports).

Optional:

1. Neil Andrews. *Andrews on Civil Processes*. Intersentia, 2013. Vol. 1. Court Proceedings.
2. Geoffrey C. Hazard, Michele Taruffo. *American Civil Procedure*. Yale University Press, New Haven and London. 1993.
3. Murray. P.L, Sturmer, R. *German Civil Justice*. Carolina Academic Press, 2004.
4. Dorig A.U. The Finality of U.S. Judgements in Civil Matters as a Prerequisite for Recognition and Enforcement in Switzerland // *HeinOnline* – 32 *Tex. Int'l L.J.* 1997.
5. Бернам У. *Правовая система США*. 3-й выпуск. – М.: «Новая юстиция». 2007.
6. Кудрявцева Е.В. *Гражданское судопроизводство Англии*. – М.: Изд. Дом «ГОРОДЕЦ», 2008.
7. *Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению*: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.

Subject 12. Appeal

1. Right to appeal as a fundamental procedural guarantee and the limits to its realization.
2. Historical evolution of different systems of review (common law and civil law systems: hierarchical vs. coordinate model).
3. Jury trial as a key reason of differences in appeal systems in two main procedural systems.
4. The goals of appeal : seeking for a balance of private and public interests
5. Different approaches to finality and preclusion (res judicata) in the European countries and USA
6. Main systems of review: appeal-appeal (UK and USA); appeal-cassation (France), appeal-revision (Germany)
7. The powers of appeal courts : common and different features of courts organization in modern legal systems
8. Cassation and revision: modern features. The role of the highest court in different legal systems. Evolution and functioning of Cour de Cassation in France, Bundesgerichtshof in Germany, Supreme Courts in UK and USA

9. Other types of review/re-opening

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
2. Murray. P.L, Sturmer, R. German Civil Justice. Carolina Academic Press, 2004.

Optional:

1. C.H. van Rhee, Alan Uzelac (eds.). Nobody's Perfect. Comparative Essays on Appeals and Other Means of Recourse against Judicial Decisions in Civil Matters. - Intersentia, 2014.
2. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
3. Geoffrey C.Hazard, Michele Taruffo. American Civil Procedure. Yale University Press, New Haven and London.1993.
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6. Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.

Subject 13. Harmonization of Civil Process: Trends and Prospects

1. Common issues of civil procedure in the context of three dimensions of justice: costs-delay-truth (A.Zuckerman, Oxford University).
2. Access to Justice as a major goal of judicial reforms. New approaches and problems on the way of increasing efficiency of justice. Liberal or Social Procedure? Public or Private?
3. Directions of reforming civil procedure: improving proceedings in 1st instance; reform of legal aid; increasing the role of the court in case-management

4. Enforcement of judgments as a global issues;
5. Approximation of models of the highest courts' activities
6. Harmonization of procedural norms as a major trend of improving civil procedural law and a factor of reforming judicial proceedings in the global context.
Levels of harmonization: European Union, Council of Europe, global one.

Reading list:

Required:

1. Chase, O. G., Hershkoff, H., Silberman, L., Taniguchi, Y., Varano, V., Zuckerman, A. Civil litigation in comparative context. 2nd ed. West Academic Publishing. 2017.
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3. Procedural Law in Europe. Towards Harmonisation. Edited by Marcel Storme. © 2003 Maklu&Marcel Storme

Optional:

1. Mattei, U. Access to Justice: A Renewed Global Issue. Electronic Journal of Comparative Law//https://works.bepress.com/ugo_mattei/34/
2. Kronke H., “Efficiency, Fairness, Macro-Economic Functions: Challenges for Harmonisation of Transnational Civil Procedure”. *Uniform Law Review*, [Revue de Droit Uniforme], NS-Vol. VI, 2001-4, Kluwer. P. 744, 746.
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4. Филатова М.А. (Москва). Импорт и экспорт гражданского процессуального права в глобальном контексте: Коллоквиум Международной Ассоциации процессуального права в Киото (Япония), 20 -22 сентября 2006 года. Российский ежегодник гражданского и арбитражного процесса. №5. 2006 /Под ред. В.В. Яркова. – СПб.: Издательский Дом С.-Петербур. гос. ун-та, 2007. С. 756-766.

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5. Гражданское процессуальное уложение Германии. Вводный закон к Гражданскому процессуальному уложению: пер. с нем./В. Бергман, введ., сост. – М.: Волтерс Клувер, 2006.
6. Медведев И.Г. Письменные доказательства в частном праве России и Франции. Спб, 2004.
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4. International Encyclopedia of Comparative Law. Vol. XVI. Civil Procedure. Chapter I. Introduction - Policies, Trends and Ideas in Civil Procedure (M. Cappelletti, B. G. Garth). - J.C.B. Mohr (Paul Siebeck), Tubingen, Mouton, The Hague, Paris, Oceana Publications Inc. New York, 1987.
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9. C.H. van Rhee, Alan Uzelac (eds.). Evidence in contemporary civil procedure. Intersentia, 2015.

B. Optional

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процесса и исполнительного производства: теория и практика. – СПб.: Издательство Р. Асланова «Юридический центр Пресс», 2004.

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11. Hazard Geoffrey C. (USA), Civil litigation without frontiers: harmonization and unification of procedural law. - In: "Procedural Law on the Threshold of a New Millennium". – International Association on Procedural Law. XI World Congress on Procedural Law. 23rd – 28th of August 1999. Universitaat. Wien. General Reports. Pp. 1-22.
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http://www.nyulawglobal.org/Globalex/Comparative_Civil_Procedure1.htm

ASSESSMENT AND GRADING

A. Assessment

- Seminar attendance / participation – 30%
- Self-study (in-betweener forms) – 10%
- Self-study (Essay) – 10%
- Examination (test) – 50%

An overall assessment formula comprises a sum total of the following variables:

$(\text{seminar attendance / participation}) * 0.3 + (\text{in-betweener forms}) * 0.1 + (\text{essay}) * 0.1 + (\text{exam}) * 0.5 = \text{final grade}$

B. Grading

Grading rates for an essay and written exam:

- Outstanding 9 – 10 points
- Very good 7 – 8 points
- Good 5 – 6 points
- Satisfactory 3 – 4 points
- Poor 1 – 2 points