

5036EN Comparative Methodology: Contract Law
2024 - 2025

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Certificate / Master - 6 crédits

Automne 2h

Vendredis 10:15-12:00 Please sign up to the course on Moodle (moodle.unige.ch) for more information.
Uni-Mail M S150

Description :

The aim of this course is to train students in the use of the comparative method. The approach used is case-oriented and based on learning by doing. In each session we start with a scenario taken from the case law of a European country and raising a highly topical issue of private law. The subject we will use as an example is contract law. Students work with materials from different jurisdictions allowing them to solve the case under different national laws as well as under international rules and principles. The materials (civil codes, court decisions and extracts of academic writing) present the current state of the law in the UK, Germany, France, Italy, Switzerland, and, for example, Spain, the Netherlands, Poland, Lithuania, Russia, the US, or China. They further include the CISG, the 'UNIDROIT Principles of International Commercial Contracts' and the 'Principles of European Contract Law'.

In a first step, the cases are solved under the different national laws and the principles of law. The second step is to analyse and compare the solutions and try to discover if any common principles exist for the issue raised. Where the national solutions diverge, we analyse their respective pros and cons and discuss which of the solutions might be the most appropriate to solve the problem at issue from a comparative and international perspective.

Students will learn how to effectively use the comparative argument in their future work, be it judges, lawyers, and legislators (national or international). On completion of the course, they will feel more comfortable in a multijurisdictional world filled with diverse legal thinkers. Course material: Th. Kadner Graziano, Comparative Contract Law 'Cases, materials and exercises, Second edition, Edward Elgar Publishing, 2019"