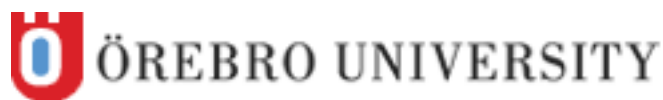


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**This course syllabus is discontinued or replaced by a new course syllabus.**

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## Course Syllabus

School of Behavioural, Social and Legal Sciences

### Comparative and Foreign Law: The Origins, Today's World and the Future, Intermediate Course, 30 Credits

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<b>Course Code:</b>	RV4421	<b>Subject Area:</b>	Field of Law
<b>Main Field of Study:</b>	Law	<b>Credits:</b>	30
<b>Education Cycle:</b>	First Cycle	<b>Subject Group (SCB):</b>	Law and Legal Studies
<b>Established:</b>	2012-08-30	<b>Progression:</b>	G1F
<b>Valid from:</b>	Spring semester 2015	<b>Last Approved:</b>	2014-10-01
		<b>Approved by:</b>	Head of School

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### Aims and Objectives

#### General aims for first cycle education

First-cycle courses and study programmes shall develop:

- the ability of students to make independent and critical assessments
- the ability of students to identify, formulate and solve problems autonomously, and
- the preparedness of students to deal with changes in working life.

In addition to knowledge and skills in their field of study, students shall develop the ability to:

- gather and interpret information at a scholarly level
- stay abreast of the development of knowledge, and
- communicate their knowledge to others, including those who lack specialist knowledge in the field.

(Higher Education Act, Chapter 1, Section 8)

#### Course Objectives

At the completion of the course the students shall be able to demonstrate a critical approach and reasoning toward questions concerning the role of comparative law in a world of cultural and religious diversity, and of dynamic legal development under the influence of Europeanization, Americanization and globalization.

Learning goals for sub-course 1: Comparative and Foreign Law: The Western Legal Tradition, 13.5 ECTS credits

At the completion of the sub-course the students should exhibit:

- Basic knowledge of the functions of comparative law,
- Basic knowledge of the different legal systems and their groupings into so called legal families,
- Knowledge of how the foremost Western legal systems have developed historically, with particular reference to the history of French, German, English and U.S. law
- Orientation on certain fundamental differences between civil law, common law and the Scandinavian legal family, as for example legal sources, the role of the courts and other legal actors, the relationship between the different branches of law.
- Insights into the relationship between the legal development and the changes in the general culture.

Learning goals for sub-course 2, Comparative and Foreign Law: The Legal Development beyond Europe, 6 ECTS credits

At the completion of the sub-course the students should exhibit:

- Basic knowledge of certain religious legal systems such as the Islamic, the Hindu, and the Hebrew

systems,

- Orientation surrounding the relationship between western (colonial) legal systems and local customary traditions in Africa,
- Knowledge of the legal development in Asia, and especially with consideration taken to China and Japan,
- Basic knowledge on the subject legal anthropology, its scientific goals and development,
- Ability to understand what sets the Western legal tradition apart.

Learning goals for sub-course 3: Comparative and Foreign Law: Independent Comparative Studies 4.5 ECTS credits

- In depth insight into theoretical and methodological problems related to studies of foreign legal systems and comparative law,
- Ability to independently (under supervision) complete a comparative study while presenting and defending the results of the study both in written form and verbally at a final seminar, also displaying
- The ability to give constructive criticism and respond to such criticism with a foundation based on relevant legal scientific doctrine.

Learning goals for sub-course 4: Comparative and Foreign Law: Private International Law, 6 ECTS credits

- A good knowledge of private international law, including general principles, international jurisdiction, applicable law, and the effect of foreign judgments regarding private law matters, such as contracts, torts, marriages and divorces, and custody of children, respectively.
- Ability to independently apply the method of private international law.
- Ability to identify and relate a private international law problem to the relevant theories and legal framework of private international law.
- Ability to present a well-argued solution to a given private international law problem.
- An insight into comparative private international law, including a basic understanding of certain fundamental differences between the common law tradition and the civil law tradition regarding international jurisdiction, as well as between the European classic approach and the U.S. interest analysis approach regarding the applicable law.

Skills and ability

The students shall display an ability to find, evaluate and communicate relevant legal information from central foreign legal systems, also displaying the skills necessary to apply comparative legal theory and method in verbal argumentation and in written form. The goal of the course is also to enhance the understanding of the interaction between different legal sources.

## Main Content of the Course

Sub-course 1. Comparative and Foreign Law: The Western Legal Tradition, 13.5 hp (13.5 ECTS credits):

The sub-course offers the student a view of the Western legal tradition. The main focus will be on the differences between the common law and civil law legal families. Legal sources and the role of the courts and other legal actors in the different systems are studied with particular attention. These topics will be treated in the context of the Scandinavian legal tradition as well. A discussion will also be held on whether the Scandinavian legal systems form their own legal family separated from the civil law tradition. Furthermore a foremost approach will also be taken toward discussing the French, German, English, and American legal traditions.

Sub-course 2. Comparative and Foreign Law: The Legal Development beyond Europe, 6 hp (6 ECTS credits):

This sub-course will deal with some of the most interesting non-European legal traditions. Focus will lie on religiously based legal traditions, such as the Islamic, Hindu and Hebrew legal systems, also considering the legal development within Africa and certain Asian countries such as Japan and China.

The sub-course will also give students some basic knowledge on the subject of legal anthropology. The course will especially analyze the relationship between the western (colonial) law, which is applied in the cities, and local customary law which is applied in the villages.

The sub-course will end with an open debate on what aspects characterize the western legal tradition in comparison to the rest of the world.

Sub-course 3. Comparative and Foreign Law: Independent Comparative Studies 4.5 hp (4.5 ECTS credits)

In sub-course 3 the students will, under supervision, write a memorandum in the area of comparative law. The sub-course will therefore be introduced with lectures concerning comparative

theory and method, legal writing and legal English.  
The memoranda will be discussed as a specific seminar.

Sub-course 4: Comparative and Foreign Law: Private International Law, 6 hp (6 ECTS credits)

The main focus of the last sub-course is the EU-law on private international law, i.e. the Brussels I and Rome I and II Regulations within the field of civil and commercial law matters, and the Brussels II bis and Rome III Regulation as well as the Maintenance Regulation within the field of family law matters. The sub-course also deals with the interplay between the EU-rules and the autonomous rules of private international law of the Member States (remaining competence), in particular the Swedish rules on private international law.

The Moot Negotiation ties together the application of private international law with practical comparative studies in commercial law.

## Teaching Methods

The course is given in English.

The course consists of lectures, seminars, discussion panels and moot negotiations. The objective is to supplement theoretical skills with practical exercises in both oral and written forms. There is mandatory attendance with respect to certain seminars and the moot negotiations. Students are expected to prepare and actively participate in the different teaching moments.

Students who have been admitted to and registered on a course have the right to receive tuition and/or supervision for the duration of the time period specified for the particular course to which they were accepted (see, the university's admission regulations (in Swedish)). After that, the right to receive tuition and/or supervision expires.

## Examination Methods

*The Western Legal Tradition: Oral Examination*, 13.5 Credits. (Code: 1120)

Oral examination (max. 30 points).

*The Legal Development beyond Europe: Oral Examination* (Code: 1200)

Oral examination (max. 30 points).

*The Legal Development beyond Europe: Obligatory Requirement* (Code: 1240)

Research plan and oral presentation (max. 10 points).

*The Legal Development beyond Europe*, 6 Credits. (Code: 1250)

The results of the oral examination and the research plan including an oral presentation are added in order to obtain the final grade for sub-course 2 (max. 40 points).

*Independent Comparative Studies*, 4.5 Credits. (Code: 1300)

Paper and oral presentation (max. 26 points).

*Private International Law: Written Exam*, 4.5 Credits. (Code: 1400)

Written exam (max. 14 points).

*Private International Law: Obligatory Requirement* (Code: 1410)

Written assignment and active participation in the seminars.

*Private International Law: Moot Negotiation*, 1.5 Credits. (Code: 1420)

Moot negotiation (max. 10 points).

*Private International Law* (Code: 1430)

The results of the written exam and the moot negotiation are added in order to obtain the final grade for sub-course 4 (max. 24 points).

For further information, see the university's local examination regulations (in Swedish).

## Grades

According to the Higher Education Ordinance, Chapter 6, Section 18, a grade is to be awarded on the completion of a course, unless otherwise prescribed by the university. The university may prescribe which grading system shall apply. The grade is to be determined by a teacher specifically appointed by the university (an examiner).

According to regulations on grading systems for first- and second-cycle education (vice-chancellor's decision 2010-10-19, reg. no. CF 12-540/2010), one of the following grades is to be used: fail,

pass, or pass with distinction. The vice-chancellor or a person appointed by the vice-chancellor may decide on exceptions from this provision for a specific course, if there are special reasons.

Grades used on course are Fail (U), Pass (G) or Pass with Distinction (VG).

*The Western Legal Tradition: Oral Examination*

Grades used are Fail (U), Pass (G) or Pass with Distinction (VG).

*The Legal Development beyond Europe: Oral Examination*

Grades used are Fail (U), Pass (G) or Pass with Distinction (VG).

*The Legal Development beyond Europe: Obligatory Requirement*

Grades used are Fail (U) or Pass (G).

*The Legal Development beyond Europe*

Grades used are Fail (U), Pass (G) or Pass with Distinction (VG).

*Independent Comparative Studies*

Grades used are Fail (U), Pass (G) or Pass with Distinction (VG).

*Private International Law: Written Exam*

Grades used are Fail (U) or Pass (G).

*Private International Law: Obligatory Requirement*

Grades used are Fail (U) or Pass (G).

*Private International Law: Moot Negotiation*

Grades used are Fail (U) or Pass (G).

*Private International Law*

Grades used are Fail (U), Pass (G) or Pass with Distinction (VG).

For further information, see the university's local examination regulations (in Swedish).

## **Specific entry requirements**

Basic Course in Law, 30 ECTS credits

For further information, see the university's admission regulations (in Swedish).

## **Transfer of Credits for Previous Studies**

Students who have previously completed higher education or other activities are, in accordance with the Higher Education Ordinance, entitled to have these credited towards the current programme, providing that the previous studies or activities meet certain criteria.

For further information, see the university's local credit transfer regulations (in Swedish).

## Other Provisions

Concerning the course in its entirety the students' results are evaluated through a system of credit points. The maximum level for the entire course is 120 points. Out of these the students can obtain:

- A maximum of 30 credit points from the oral examination in sub-course 1.
- A maximum of 30 credit points from the oral examination in sub-course 2.
- A maximum of 10 credit points from the research plan including a verbal presentation in sub-course 2.
- A maximum of 26 credit points from the paper including a verbal presentation in sub-course 3.
- A maximum of 14 credit points from the written exam in private international law in sub-course 4.
- A maximum of 10 credit points from the moot negotiation in private international law in sub-course 4.

The results from those six examinations will be added in order to reach one of the following grades: U (Fail), G (Pass), and VG (Pass with distinction).

60 credit points are required to obtain the grade G. 90 credit points are required to obtain the grade VG.

The student also has to have received at least

- 15 credit points from each oral examination
- 5 credit points from the research plan including a verbal presentation
- 13 credit points from the paper including a verbal presentation
- 7 credit points from the written exam
- 5 credit points from the moot negotiation.

Participation is mandatory at certain seminars and at the moot negotiation. Students are expected to prepare and actively participate in the different teaching formats.

Sub-course 3: The paper is to be handed in via Blackboard before the oral presentation seminar. Papers that obtain the grade Fail may be completed. In case of completion (komplettering) the student can only obtain a maximum of 19 credit points for the paper and, consequently, only the grade Fail (U) or Pass (G) can be awarded. The completed paper is to be re-submitted in August.

Sub-course 4: A memorandum, or a moot negotiation memorandum, that has been awarded the grade Fail may be completed to the grade Pass. In case of completion (komplettering) the student can only obtain a maximum of 5 credit points for the moot negotiation memorandum and, consequently, only the grade Fail (U) or Pass (G) can be awarded. The completed memorandum, or moot negotiation memorandum, must be re-submitted no later than the last day of the re-sit period in August, failing that the grade Fail will be awarded and a replacement assignment must be submitted. The same applies if the completion is awarded the grade Fail.

For the examinations that are graded with Fail (U), Pass (G) or Pass with Distinction (VG), the following point limits apply:

- Oral examinations (sub-courses 1 and 2): 15 points are required to obtain the grade Pass (G) and 23 points are required to obtain the grade Pass with Distinction (VG).
- Sub-course 2: 20 points are required to obtain the grade Pass (G) and 30 points are required to obtain the grade Pass with Distinction (VG).
- Paper (sub-course 3): 13 points are required to obtain the grade Pass (G) and 20 points are required to obtain the grade Pass with Distinction (VG).
- Sub-course 4: 12 points are required to obtain the grade Pass (G) and 18 points are required to obtain the grade Pass with Distinction (VG).

## Transitional Provisions

For a course that has been cancelled or significantly changed in content or scope, there may be examinations on three occasions within 18 months after the changes have been made.

## Reading List and Other Teaching Materials

### Part 1: Required Reading

Zweigert, Konrad (3 ed.)  
*An introduction to Comparative Law*  
 Oxford University Press, 744 pages

### Part 2: Required Reading

Wael B. Hallaq (2009)

*An Introduction to Islamic Law*  
Cambridge University Press, 200 pages

#### **Part 4: Required Reading**

Briggs, Adrian (2013)  
*The Conflict of Laws*  
Oxford University Press, 448 pages, selected parts of approx. 300 pages

#### **Additions and Comments on the Reading List**

Sub-course 1:

Materials as posted on Blackboard (max. 500 pages).

Sub-course 2:

Articles as posted on Blackboard (max. 350 pages).

Sub-course 3:

Materials, articles and references as posted on Blackboard. (max. 200 pages).

Sub-course 4:

Materials and case references as posted on Blackboard (max. 200 pages).

The latest edition of the literature should be used. If a later edition of course literature is available but is not listed above, use the later edition.