**Syllabus**

**Comparative Civil Procedure**

*(Taught by Maria Filatova, PhD,*

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1. **Course Brief**
2. **Title**

Comparative Civil Procedure

**2. Prerequisites**

General Civil Procedure course would be an advantage

3**. Abstract**

The course «Comparative Civil Procedure» covers different aspects of court organization, types of procedural systems and forms of judicial as well as non-judicial protection existing in the modern global context. It provides for an analysis of the history and evolution of modern procedural systems, their main particularities and global procedural concepts. The course gives as well an overview of general procedural institutes and their functioning in different types of procedural systems.

**II. Course Objectives**

The main objectives of the course are the following:

1. Obtaining knowledge allowing to assess in a correct way the legal environment in which foreign partners of Russian business actors live and act;
2. Acquiring the skills of professional evolution of perspectives of filing a claim with foreign States’ courts in case of legal disputes;
3. Familiarization of students with main procedural concepts including those unknown in the Russian legal system;
4. Learning the trends of development of the procedural law in the global context.

**III. Course Learning Outcomes**

Students should gain:

*Knowledge* of :

* the basic typology of modern procedural systems and their particularities;
* 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 cases examination by the foreign courts;
* give legal analysis of potential legal issues which may arise in course of examination of the case by a foreign jurisdiction;
* give an analysis of foreign procedural law and case-law;
* deal with basic skills of legal analysis when assessing particular cases and legal conflicts.

**IV. Course Plan**

1. Typology of Modern Procedural Systems;
2. Sources of Procedural Law of Modern States;
3. Judicial Organization of Modern States;
4. Proceedings and its Structure in Different Legal Systems;
5. Judicial Decisions and Their Effects in Modern Legal Systems; Res Judicata and its Perception in Different Countries
6. Appeal and Recourse against Judicial Decisions;
7. Trends of Development of Modern Legal Systems;
8. Harmonization and Unification of Modern Procedural Law.

**Total hours**: 32 (16 - lectures, 16- seminars).

**V. Reading List**

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. 2005.
3. Peter Gottwald. Comparative Civil Procedure//Ritsumeikan Law Review. 22-2005.
4. 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 Auspies of the International association of Legal Science. – Milano – Dott. A. Giuffre Editor. Dobbs Ferry, New York – Oceana Publications, Inc. 1973. Pp. 661-774.
5. International Encyclopedia of Comparative Law. Vol. XVI. Civil Procedure. Chapter I. Introduction - Policies, Trends and Ideas in Civil Procedure (M. Cappelletti, B. G. Garth). 1987.
6. International Encyclopedia of Comparative Law. Vol. XVI. Civil Procedure. Chapter II. History of Civil Procedure. (B.C. van Caenegem).
7. 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.
8. Alan Uzelac (ed.). Goals of Civil Justice and Civil Procedure in Contemporary Judicial Systems (Ius Gentium: Comparative Perspectives on Law and Justice). Springer, 2014.
9. C.H. van Rhee (ed.). European Traditions in Civil Procedure. - Intersentia, Antwerpen, Oxford. 2005.
10. Zuckermann on Civil Procedure: Principles of Practice. 2 ed. London, Sweet&Maxwell.2006.
11. Neil Andrews. Andrews on Civil Processes. Intersentia, 2013. Vol. 1. Court Proceedings.
12. Murray. P.L, Sturner, R. German Civil Justice. Carolina Academic Press, 2004.
13. Maleshin, D.Ya. Russian Style of Civil Procedure// Emory International Law Review, 2007. Vol.21, no. 2. (<http://www.law.msu.ru/node/7344>)
14. Hazard G.C., Taruffo M. American Civil Procedure. Yale University Press, New Haven and London.1993.
15. Geeroms Sofie, Foreign Law in Civil Litigation. A Comparative and Functional Analysis. Oxford University Press (Oxford Private International Law Series). *2004.*
16. Rudolph Schlesinger and Ugo Mattei. [Schlesinger's Comparative Law: Cases, Text, Materials, 7th Edition (University Casebooks)](https://www.amazon.com/Schlesingers-Comparative-Law-Materials-University/dp/1587785919/ref=sr_1_2?ie=UTF8&qid=1534533799&sr=8-2&keywords=antonio+gidi). 2009.
17. Chase O., Cadiet L. “The Culture and Science of Obtaining Information and Proof-Taking” – In: XII World Congress of Procedural Law. Asociacion Internacilnal de derecha Procesal, Instituto Mexicana Derecho Procesal. Mexico, septembre 22-26, 2003. Pp. 31-67
18. C.H.van Rhee. Judicial Case-management and Efficiency in Civil Litigation. Intersentia. 2008.
19. 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..
20. C.H. van Rhee, Alan Uzelac (eds.). Evidence in contemporary civil procedure. Intersentia, 2015.
21. 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.
22. Mattei, U. Access to Justice: A Renewed Global Issue. Electronic Journal of Comparative Law//<https://works.bepress.com/ugo_mattei/34/>
23. 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.
24. Hazard Geoffrey C. (USA), Civil litigation without frontiers: harmonization and unification of proceduaral 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.

**VI. Methods of Instruction and Control**

* Using interactive educational technologies (problematic lectures, case-law studies, work in small groups).
* Using ratings and accumulative methods of control.

Self-study control:

- Essay or presentation on a selected topic as agreed with the Course Instructor (8-10 printed pages (Times New Roman, 14 pt);

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