

Student registration number (Matrikelnummer):

Name:

Date: 5. October 2023



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Comparative Law

Exam

Exercise: Please answer the following questions in English using **complete sentences**. The exam is be divided into three parts – note the back. Please note that each part must be **independently passed** in order to receive a **positive grade** overall.

Part 1

40/80 p

1. Please explain the main characteristics of and differences between Common law and Civil law systems.

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- 2. Why does common law provide for damages as a general consequence of breach of contract, whereas civil law systems require performance in kind? How do the two systems converge?**

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3. Describe the different forms of divorce around the globe. Which legal solution do you prefer and why?

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A large empty rectangular box with a blue border, intended for the student's answer to the question.

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- 4. Berta wants to give Albert her bicycle as a present; Albert agrees. Have Berta and Albert thereby concluded an enforceable contract under A) French and B) English law? Please substantiate your answers.**

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5. Please tick the jurisdictions that would allow the transfer of property in the following cases:

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a. Felix and Paul conclude a valid contract for the transfer of ownership of Felix's watch. The watch, however, remains with Felix.

- French law
- German law
- English law

b. Felix sells and delivers Paul his watch as he thought they concluded a valid contract. In fact, however, the contract was null and void from the beginning.

- Swiss law
- French law
- German law

a. Felix sells and transfers a watch to Paul. Paul is not aware that the watch is actually not owned by Felix, but belongs to his best friend Julia, who has merely lent it to Felix.

- Italian law
- Swiss law
- English law

Part 2

20/80 p

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1. What are Large-N-Studies and what can they be used for? Discuss two examples.

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2. What is the difference between a flexible and a rigid constitution? Explain the differences using a specific example each.

Empty rectangular box for the answer to question 2.

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Part 3

20/80 p

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- 1. Explain the term "private enforcement" and critically compare and discuss shortly how different legal system provide or do not provide for the possibility of individual claims based on capital market torts.**

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2. Tort Law

- a. Which two broad legal systems can be recognized from a comparative law perspective also in regard to tort law?**
- b. Which two different tort systems are recognized in both legal systems? What is the underlying thought/reasoning (not function!) of each system?**
- c. Which solution do Sections 1293 seqq. ABGB / Art. 2043 Italian Civil Code / Art. 1902 Spanish Civil Code / Art. 1240 French Civil Code subscribe to?**

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3. Please explain the concept of exorbitant jurisdictions and show examples how it could be implemented. Are there any issues in regard to exorbitant jurisdictions?