

# LAWS50067 European Civil Law

<b>Credit Points:</b>	12.5																	
<b>Level:</b>	5 (Graduate/Postgraduate)																	
<b>Dates &amp; Locations:</b>	2015, Parkville This subject commences in the following study period/s: Semester 1, Parkville - Taught on campus. Seminars with optional opportunity for student presentations of research in progress towards the end of the semester.																	
<b>Time Commitment:</b>	Contact Hours: One 3 hour class session per week and two half-day workshops in weeks 11 and 12. Total Time Commitment: 144 hours.																	
<b>Prerequisites:</b>	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> </tbody> </table>			Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50024 Principles of Public Law	Semester 1	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50
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<b>Corequisites:</b>	None																	
<b>Recommended Background Knowledge:</b>	Knowledge of one or more European languages is an advantage.																	
<b>Non Allowed Subjects:</b>	None																	
<b>Core Participation Requirements:</b>	<p>The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">www.services.unimelb.edu.au/disability/</a>.</p>																	
<b>Coordinator:</b>	Assoc Prof Martin Vranken																	
<b>Contact:</b>	Melbourne Law School Student Centre Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475																	
<b>Subject Overview:</b>	This subject offers students an opportunity to critically examine in detail a major legal family that is radically different from the common law. Class based discussion of the core features of the (European) civil law is built upon through independent and in-depth research exercises into selective aspects of this major family of law in the Western world today. This subject allows																	

	<p>students to gain a deeper, and integrated, understanding of Australian law and, more generally, critically reflect upon the common law against a contemporary backdrop of globalisation. The growing importance of the legal order of the European Union will be a particular feature of examination as will be the current state of play as regards the scholarly debates concerning the various theories of convergence and divergence between legal systems. With respect to the latter, writings by outspoken scholar and critic Pierre Legrand will be scrutinised.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> <li># Comparativism and the comparative method (with particular emphasis on the problem of transplantability);</li> <li># Historical formation of the Romano-Germanic family of law (commencing with the fall of the Roman empire in the West in 476);</li> <li># Codes and codification (including a study of the 19th century conditions favouring codification and their contemporary relevance together with close scrutiny of the core features of 'substantive' – as distinct from 'formal' – codes);</li> <li># Selected case studies (with particular attention to core components of the law of obligations – i.e. tort and contract – as well as post-codification developments – e.g. social and consumer protection law);</li> <li># Impact of the legal order of the European Union as a source of supra-national law (with special focus on the tensions between so-called deepening and widening in the European integration movement as well as the distinction between the 'written' and 'unwritten' laws of the Union);</li> <li># Theories of convergence and divergence (including their implication for the future study and development of Australian law).</li> </ul>
<p><b>Learning Outcomes:</b></p>	<p>A student who has successfully completed this subject will have an advanced appreciation of the complexities involved in applying the comparative method across different legal families - especially where these families belong to the same broad Western tradition. On completion of this subject students will have obtained a sophisticated understanding of the extent to which the legal family of the civil law operates as a critical point of contrast with the legal family of the common law. In particular, on completion of this subject students should:</p> <ul style="list-style-type: none"> <li># Understand and be able to critically assess the fundamental features of the European civil law;</li> <li># Appreciate the subtleties of the interaction between the main legal actors in codified systems of law, including the role of scholarship;</li> <li># Be able to critically reflect on the relative merits of a deductive as opposed to inductive approach to legal reasoning;</li> <li># Appreciate the growing influence and limits of the legal order of the European Union;</li> <li># Be able to critically reflect on the competing theories of convergence and divergence in comparative law.</li> </ul>
<p><b>Assessment:</b></p>	<p>A 6000 word research paper (100%) OR A 3 hour open book exam (100%)</p>
<p><b>Prescribed Texts:</b></p>	<p>M Vranken, European Civil Law and Impact of the European Community (latest edition); Specialist printed materials will also be made available from Melbourne Law School.</p>
<p><b>Breadth Options:</b></p>	<p>This subject is not available as a breadth subject.</p>
<p><b>Fees Information:</b></p>	<p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>
<p><b>Generic Skills:</b></p>	<p>On completion of the subject, students should have the ability to undertake independent and sophisticated research into one or more aspects of foreign (European) law outside the legal family of the common law. This will involve an ability to:</p> <ul style="list-style-type: none"> <li># Generate and evaluate complex ideas at both an abstract and applied level;</li> <li># Justify and expound, in oral and written form, how comparative principles or methods are relevant to legal thinking and practice;</li> <li># Present analyses and application of principles in the form of oral and written arguments that are appropriately investigated, structured, developed, supported and referenced;</li> <li># Develop and expand upon the cognitive, technical and creative skills required to engage in independent thought and critical reflection across different legal systems;</li> <li># Develop and expand upon the cognitive, technical and creative skills required to to critically review legal scholarship across different families of law;</li> </ul>

	<ul style="list-style-type: none"><li># Develop and expand upon the communication and technical research skills required to analyse, evaluate and theorise about the merits of inductive and deductive approaches to legal reasoning;</li><li># Develop and expand upon the cognitive, technical and creative skills required to engage in thorough comparative research;</li><li># Communicate clearly the outcome of that research;</li><li># Develop and expand upon the cognitive, technical and creative skills required to place selected legal phenomena in their broader historical, socio-economic and political settings.</li></ul>
<b>Notes:</b>	This subject has a quota of 60 students. Details on <b>quota subject selection (<a href="http://www.law.unimelb.edu.au/jd/current-students/enrolments/quota-subject-selection/">http://www.law.unimelb.edu.au/jd/current-students/enrolments/quota-subject-selection/</a>)</b> are available on the JD website.