

**MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE  
WEST UKRAINIAN NATIONAL UNIVERSITY  
LAW FACULTY**



Approved  
T. A. Dean of Faculty of Law  
Nadina MOSKALYUK  
2023

Approved  
A vice-rector for scientific and pedagogical work  
V. V. OSTROVERKHOV  
2023



**Work program  
discipline  
«Comparative civil law»**

Higher education degree - bachelor  
Field of knowledge - 29 International relations  
Specialty - 293 International law  
Educational and professional program – «International law»

**Department of International Law and Migration Policy**

Form of study	Study year	Semester	Lectures	Practical classes	Individual work	Training, CPIT	Student -self study	Total	Exam/ Credit
Full- time	2	4	28	14	3	6	9	60	Exam

31.08.2023  
[Signature]

Ternopil – WUNU, 2023

The work program was developed on the basis of the educational and professional program for Bachelor's field of knowledge 29 International relations, specialty 293 International law (approved by the Academic Council of WUNU, Protocol No 9 from 15.06.2022).

The work program was compiled by Nataliya MARTSENKO, PhD, Associate Professor, Associate Professor of the Department of International Law and Migration Policy

The work program was considered and approved at the meeting of the Department of International Law and Migration Policy, Protocol No. 1 dated August 29, 2023.

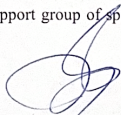
Head of Department



Yaryna ZHUKORSKA

Considered and approved by the Support group of specialty 293 International law, Protocol No. 1 dated August 31, 2023.

Head of the SGS



Yaryna ZHUKORSKA

Guarantor of EP



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**STRUCTURE OF THE WORK PROGRAMME OF EDUCATIONAL DISCIPLINE**  
**«Comparative civil law»**

**1. Description of the discipline «Comparative civil law»**

<b>The discipline «Comparative civil law»</b>	<b>Field of knowledge, specialty, educational and professional program, higher education degree</b>	<b>Characteristics of the educational discipline</b>
Number of ECTS credits – 2	Field of knowledge - 29 «International relations»	Discipline status: normative Language of study: English
Number of credit modules – 4	Specialty – 293 «International law»	Year of study - 2 Semester – 4
Number of content modules – 2	Educational and Professional Program - 293 International Law	Lectures – 28 hours. Practical classes – 14 hours..
Total number of hours – 60	Higher education degree – Bachelor	Student-self study – 9 hours Training and CPIT - 6 hours. Individual work – 3 hours.
Weekly hours – 4, of which classroom hours – 3		Type of final control – exam

**2. The purpose and tasks of the discipline «Comparative civil law»**

**2. 1. The purpose of studying the discipline:**

The purpose of the discipline «Comparative Civil Law» is to provide students with a deep and thorough study of the peculiarities of legal regulation of civil relations in different civil law systems.

**2. 2. The task of studying the discipline:**

- mastering the basic concepts of civil law of different countries by students;
- creation of scientific prerequisites for students to carry out their own critical analysis of civil relations;
- identifying the place and importance of comparative civil law in the system of legal sciences;
- critical analysis of the interaction between theory and practice.

**2. 3. Name and description of competences, the formation of which ensures the study of the discipline:**

SC 1. Ability to critically comprehend the theories, principles, methods and concepts of international, European law, comparative jurisprudence, take into account the temporal factor and predict the main directions of development of legal systems.

SC 2. Ability to form judgments in the field of international, European, national law, comparative jurisprudence, taking into account social, scientific and ethical aspects.

SC 4. Ability to interpret and apply EU law, participate in harmonization of Ukrainian legislation with EU law, provide legal support for Ukraine's European and Euro-Atlantic integration.

SC 5. Ability to analyze the content of national legal norms, institutions and branches of law in a comparative legal context.

**2.4. Prerequisites for studying the discipline**

The prerequisites for studying the educational discipline «Comparative civil law» are the following disciplines: «Information technology in law», «Theory of the state and law», «History of state and law of foreign countries and Roman law», «Modern legal systems», «Comparative constitutional law», «International and comparative labor law».

**2. 5. Learning outcomes:**

LO 5. To carry out a comparative analysis of legal systems, assess and argue their shortcomings and advantages, find and interpret relevant foreign legislation, provide advice on its content and application practice, assess and minimize the risks of legally significant actions, taking into account the multiplicity of legal systems and jurisdictions.

LO 7. To use the case law of the European Court of Human Rights, other international judicial and arbitration bodies, theoretical knowledge of international and national law to substantiate and defend one's own position, protect the interests of the client and for other professional purposes.

LO 15. To formulate conclusions, develop recommendations, and justify their own vision of ways to solve problems in the field of lawmaking, law interpretation and law enforcement.

LO 16. To know modern scientific achievements in the field of international and national law, to have skills in research work, to interpret the results of scientific research and to take them into account in practical professional activities.

### **3. Program of the study discipline «Comparative civil law»**

#### **Content module 1**

##### **Topic 1: General provisions of the law of obligations**

The concept and types of obligations in different legal systems. Grounds for the emergence of obligations. Obligations from contract and quasi-contract, tort and quasi-tort in French civil law. Obligations from law, agreement, tort, unjust enrichment and conducting another's affairs without a commission in German law. Obligations from torts, contracts and quasi-contracts in the Anglo-American civil law system. Classification of obligations in different legal systems.

Conditions and principles of fulfilment of obligations in foreign legal systems. Consequences of non-fulfilment of obligations. Civil liability for non-performance or improper performance of obligations. Damages in the civil law of foreign countries. Compensatory and non-compensatory, concrete and abstract damages. The debtor's fault in causing damage. Grounds for exemption of the debtor from liability. Inability to fulfil the obligation by the debtor. Accident and force majeure in different civil law systems. The theory of "futility" (loss of meaning) of a contract in the Anglo-American system of law.

Plurality of persons in obligations. Shared, joint and several obligations in the Romano-Germanic system of law. Joint or separate creditors, joint, joint and several debtors in Anglo-American civil law. Assignment of claims and transfer of debt. Termination of obligations.

##### **Topic 2. Enforcement of obligations in the civil law of foreign countries**

General description of the ways to ensure the fulfillment of obligations in the civil and commercial law of foreign countries. Means of securing fulfillment of obligations in the civil law of Ukraine: concept and characteristics. Classification of means of ensuring the fulfillment of obligations. Real and legal. Obligatory legal means.

##### **Topic 3: Civil liability in the legislation of different countries**

The concept of civil liability. The basis of civil liability. Civil liability for failure to fulfill obligations. Forms of civil liability for failure to fulfill obligations. Grounds for exemption from liability.

##### **Topic 4. General provisions on contracts in civil law**

The concept of contracts in the civil law of foreign countries. Classification of contracts. Unilateral and synallagmatic (bilateral), paid and gratuitous, consensual and real, exchange and risk contracts in continental Europe. Classification of contracts in the Anglo-American system of law. The content of the contract. Essential, ordinary and incidental terms of the contract in the civil law of the Romano-Germanic system. Essential, simple and implied terms of the contract in the Anglo-American system of law. The meaning of the contract. Conclusion of the contract. Offer and acceptance in the civil law of foreign countries.

Conditions for the validity of a contract in foreign civil law systems. Requirements for the subjects of the contract. Legal significance of the content of the contract. Will and expression of will in the contract. Form of the contract and its significance. Legal basis of the contract (causa) in the countries of continental Europe. Counter remuneration in the contract in the Anglo-American system of law.

##### **Topic 5. Classification of contractual structures under the civil law of Ukraine and other countries.**

Agreements on the paid transfer of property. Agreements on the free transfer of property. Agreements for the transfer of property subject to periodic payments. Agreements on the transfer of property for use. Contracts for the performance of work. Agreements for the provision of services.

Agreements on the transfer of monetary contributions. Peculiarities of legal regulation of settlements in the civil law of Ukraine and some other foreign countries.

### **Content module 2**

#### **Topic 6. Non-contractual obligations in the civil law of different countries**

The concept of non-contractual obligations and obligations to cause damage in different civil law systems. Features and significance of obligations to cause damage in foreign civil law. Sources of legal regulation of liability for damage. Grounds for the emergence of obligations to cause damage. The formula of general tort in the countries of the continental civil law system. The system of mixed torts. The system of singular torts in Anglo-American law.

The concept of damage in the civil law of foreign countries. "Nominal damage" in tort liabilities. Property and non-pecuniary damage in compensation obligations. Causation in tort liabilities and its significance. Indirect damage, remote damage and damage arising in the absence of an adequate causal link. Fault in liability for damage. Liability without fault. Liability for risk (danger) in the civil law of foreign countries. Distinction between tort and contractual liability. Competition of claims (competition of liability) in the civil law of Germany, England, and the USA. Peculiarities of liability for damages under the law of certain countries (France, Germany, England, USA).

#### **Topic 7. Compensation for damage. Compensation for non-pecuniary damage**

The concept and features of non-pecuniary damage in the law of foreign countries. Conditions for the emergence of an obligation to compensate for non-pecuniary damage. Peculiarities of determining the amount of liability for non-pecuniary damage. The role and importance of value judgments in determining the amount of compensation for non-pecuniary damage.

#### **Topic 8: Inheritance law**

The concept and sources of inheritance law in foreign countries: continental system of law (France, Germany); Anglo-American system of law (England and the United States). The concept of inheritance. Inheritance by will. The concept and form of a will in the law of foreign countries. Types of wills. Testamentary orders. Freedom of will in different civil law systems. Revocation and amendment of a will. Execution of the will.

Inheritance by law in the civil law of foreign countries. Subjects of inheritance by law. Privileged heirs by law in the inheritance law of foreign countries. Shares of heirs by law in inherited property.

Transfer of inherited property to heirs in the countries of the continental system of law. Institute of personal representative under the will and administrator of inherited property in the law of the Anglo-American system. Liability for the testator's debts.

#### **Topic 9: General provisions of family law in foreign civil law systems**

The concept and conditions of marriage in the law of foreign countries. Grounds for divorce in different civil law systems. Rights and obligations of spouses in continental and Anglo-American law.

The concept and features of the marriage contract. Execution of the marriage contract. Legal relations of parents and children in foreign civil law systems.

### **4. The structure of credit from the study discipline «Comparative civil law»**

Topic	Number of hours					
	Lectures	Practical classes	Student-self study	Individual work	Training, CPIT	Control events
<b>Content module 1</b>						
Topic 1: General provisions of the law of obligations	2		1	1	3	questions, tests, cases, essay
Topic 2. Enforcement of obligations in the civil law of foreign countries	2	2	1			
Topic 3: Civil liability in the legislation of different countries	2	2	1			
Topic 4. General provisions on contracts in civil law	2		1			

Topic 5. Classification of contractual structures under the civil law of Ukraine and other countries.	10	4	1			
<b>Content module 2</b>						
Topic 6. Non-contractual obligations in the civil law of different countries	2	2	1	2	3	questions, tests, cases, essay
Topic 7. Compensation for damage. Compensation for non-pecuniary damage	2		1			
Topic 8: Inheritance law	4	2	1			
Topic 9: General provisions of family law in foreign civil law systems	2	2	1			
<b>Total</b>	<b>28</b>	<b>14</b>	<b>9</b>	<b>3</b>	<b>6</b>	

## 5. Topics of practical classes.

### Practical lesson № 1

**Topic: Enforcement of obligations in the civil law of foreign countries**

**Objective: To characterize the means of securing obligations in civil law**

**Questions for discussion:**

1. General characteristics of the ways of ensuring the fulfillment of obligations in the civil and commercial law of foreign countries.
2. Means of ensuring the fulfillment of obligations in the civil law of Ukraine: concept and characteristics.
3. Classification of means of ensuring the fulfillment of obligations.

### Practical lesson № 2

**Topic: Civil liability in the legislation of different countries**

**Objectives: To get acquainted with the peculiarities of civil liability**

**Questions for discussion:**

1. The concept of civil liability.
2. The basis of civil liability.
3. Civil liability for failure to fulfill obligations.
4. Forms of civil liability for failure to fulfill obligations.
5. Grounds for exemption from liability.

### Practical lessons № 3-4

**Topic: Classification of contractual structures under the civil law of Ukraine and other countries.**

**Objective: To study different types of contracts according to various classification criteria in the civil law of Ukraine and other countries.**

**Questions for discussion:**

1. General characteristics of a sales contract.
2. Retail sale and purchase agreement
3. The contract of supply
4. Contract for the contracting of agricultural products
5. Agreement for the supply of energy and other resources through the connected network
6. Contract of exchange
7. General provisions on the service agreement.
8. Contracts for the carriage of goods, passengers and baggage.
9. Contract of freight forwarding.
10. Storage agreement.
11. Insurance contract.
12. The contract of assignment.
13. Agency agreement.
14. Commission agreement.
15. Consignment agreement.

16. Property management agreement.

#### **Practical lesson № 5**

**Topic: Non-contractual obligations in the civil law of different countries**

**Objective: To study non-contractual obligations in different civil law systems**

**Questions for discussion:**

1. A public promise of reward.
2. Actions in the property interests of another person without his/her authorization.
3. Saving the health and life of an individual, property of an individual or legal entity.
4. Creating a threat to life, health, property of an individual or property of a legal entity.
5. Liability for damage in the law of Germany, France, England and the United States.

#### **Practical lesson № 6**

**Topic: Inheritance law**

**Objective: To study the procedure and peculiarities of inheritance in different civil law systems.**

**Questions for discussion:**

1. Concept and sources of inheritance law of foreign countries: continental system of law (France, Germany); Anglo-American system of law (England and the United States).
2. The concept of inheritance. Inheritance by will. The concept and form of a will in the law of foreign countries. Types of wills.
3. Testamentary orders. Freedom of will in different civil law systems.
4. Revocation and amendment of the will. Execution of the will.
5. Inheritance by law in the civil law of foreign countries.
6. Transfer of inherited property to heirs in the countries of the continental system of law

#### **Practical lesson № 7**

**Topic: General provisions of family law in foreign civil law systems.**

**Objective: To find out the peculiarities of legal regulation of family relations in different civil law systems.**

**Questions for discussion:**

1. The concept and conditions of marriage in the law of foreign countries.
2. Grounds for divorce in different civil law systems.
3. Rights and obligations of spouses in continental and Anglo-American law.
4. The concept and features of the marriage contract. Execution of the marriage contract.
5. Legal relations of parents and children in foreign civil law systems.

### **6. Complex practical individual task**

Complex practical individual task (CPIT) is a form of organization of education, which aims to deepen, generalize and consolidate the knowledge that students receive in the process of learning, as well as the application of this knowledge in practice. CPIT is performed by students independently under the guidance of teachers, it is a completed theoretical or practical work within the curriculum of the course, which is performed on the basis of knowledge, skills and abilities acquired in the course of lectures and practical classes.

CPIT in the discipline «Comparative civil law» consists of two components:

1. Theoretical part.
2. Practical part.

**I. Theoretical part complex practical individual task** . The theoretical part of the CPIT (essay, scientific article, theses) from the narrow issues of the course (the topic of the scientific work can be proposed by the student himself and agreed with the academic supervisor) or selected from the following.

1. Legal differences in the performance and termination of contracts in different legal systems.
2. Automatic continuation of contracts in continental and Anglo-American contract law.
3. Comparison of contractual conflict resolution mechanisms: arbitration and the judicial system.
4. Requirements for reaching agreement in contracts: analysis of modern legal approaches.
5. The use of contractual construction in various branches of law.
6. Legal basis of liability for breach of contract in continental and Anglo-American law.
7. Rules for changing the terms of the contract in different legal systems.
8. The role of good faith in the performance of contracts.

9. Comparative analysis of the rules of invalidation of contracts.
10. The impact of globalisation on changing the structure and language of contracts.
11. Regulation of online transactions in legal systems: risks and challenges.
12. Fictitious contract in the law of different countries.
13. Consumer protection in service contracts: legal approach in Europe and the United States.
14. The influence of judicial precedents on the development of contract law in the Anglo-American system.
15. The role of Internet platforms and smart contracts in changing traditional approaches to the conclusion and execution of contracts.

The scientific work is drawn up in the form of a presentation and defended with the help of multimedia tools in the presence of other students.

**II. The practical part of the complex practical individual task** involves the student creating a glossary of terms from the studied scientific topic, developing tests, solving a situational problem from the chosen topic.

### **7. Student-self study**

Student-self study, as one of the forms of assimilation of educational material in the time free from compulsory classes and without the participation of the teacher, involves a personally-oriented organization of the student's self-education. The organization of Student-self study requires special attention, because part of the questions of each topic are submitted for independent study by students, and the material intended for learning during independent work is submitted for the exam. Student-self study is ensured by the necessary educational and methodical means (including lecture notes, educational and methodical developments for independent study of the discipline, periodicals). Students have the opportunity to study the educational material independently in the library, classrooms and computer classrooms using the Internet, as well as at home (when receiving the appropriate package of educational and methodological literature).

<b>No</b>	<b>Topic</b>
1	Topic 1: General provisions of the law of obligations
2	Topic 2. Enforcement of obligations in the civil law of foreign countries
3	Topic 3: Civil liability in the legislation of different countries
4	Topic 4. General provisions on contracts in civil law
5	Topic 5. Classification of contractual structures under the civil law of Ukraine and other countries.
6	Topic 6. Non-contractual obligations in the civil law of different countries
7	Topic 7. Compensation for damage. Compensation for non-pecuniary damage
8	Topic 8: Inheritance law
9	Topic 9: General provisions of family law in foreign civil law systems

### **8. Discipline training**

#### **Organization and training**

**Training** is a planned process of modifying (changing) the attitude, knowledge or behavioral skills of a learner through the acquisition of educational experiences in order to achieve effective performance in one activity or in a certain field.

#### *Training procedure*

**The introductory part** is conducted to familiarize students with the topic of the training session.

**The organizational part** consists in creating a working mood in the team of students, determining the rules for conducting a training class. It is possible to have handouts in the form of tables, document forms.

**The practical part is** implemented by performing tasks in groups of students on certain problematic issues of the topic of the training class.

**Summing up.** The results of completed tasks are discussed in groups. Exchange of opinions on the issues raised at the training sessions.

#### **The topic of the training**

Consumer protection in civil law of Ukraine and the EU.



### 9. Evaluation tools and methods of demonstrating learning outcomes

In the process of studying the discipline «Comparative civil law», the following evaluation tools and methods of demonstrating learning results are used: standardized tests; current survey; credit module testing and survey; cross-cutting projects; team projects; abstracts, essays; presentations of the results of completed tasks and research; evaluation of the results of CPIT; student presentations and performances at scientific events; modular control work; examination.

### 10. Criteria, forms of current and final control

The final score (on a 100-point scale) from the discipline «Comparative civil law» is determined as a weighted average value, depending on the specific weight of each credit component:

Credit module 1	Credit module 2	Credit module 3	Credit module 4	Total
20%	20%	20%	40%	100%
Oral survey during classes (1-5 topics) - 10 points per topic - max. - 50 points. Modular control work - max. 50 points.	Oral survey during classes (6-9 topics) - 10 points per topic - max. 40 points. Modular control work - max. 60 points.	Preparation of CPIT - max. 40 points. Protection of CPIT - max. 40 points Participation in trainings - max. 20 points .	Test tasks (10 tests) 2 points each – max. 20 points Theoretical questions (2 questions) – 20 points per questions - max. 40 points. Case (1 case) – max. 40 points	100

#### Rating scale:

According to the scale of the University	On a national scale	According to the ECTS scale
90-100	perfectly	A (excellent)
85-89	fine	B (very good)
75-84		C (good)
65-74	satisfactorily	D (satisfactory)
60-64		E (enough)
35-59	unsatisfactorily	FX (unsatisfactory with possibility of reassembly)
1-34		F (unsatisfactory with mandatory repeat course )

### 11. Tools, equipment and software, the use of which provides for the educational discipline

No	Name	Topic number
1.	Flipchart	1-9
2.	Laptop	1-9
3.	Projector	1-9

#### RECOMMENDED SOURCES OF INFORMATION:

- Draft Common Frame of Reference (DCFR). URL: [https://www.trans-lex.org/400725/\\_/outlineedition-/](https://www.trans-lex.org/400725/_/outlineedition/)
- Liliana Sishchuk, Viktoriia Vasylieva. Particularities of functioning of the general meeting of a jointstock company under martial law. Entrepreneurship, business and law. 2022. № 3. P. 48-55.
- Roman Tashian. Invalid transactions in private law doctrine. Entrepreneurship, business and law. 2021. № 11. P. 42-47.
- Taras Sofiiuk, Larysa Neskorozhena, Yuliia Kabenok. The right of the natural person to individuality. Entrepreneurship, business and law. 2021. № 11. P. 27-41.
- Wiessner S. General theory of international civil law. Leiden etc.: Brill Nijhoff, 2020. 534 p.

6. Kischel, Uwe, and Andrew Hammel, 'The Basic Context of Civil Law', *Comparative Law* (Oxford, 2019; online edn, Oxford Academic, 17 Apr. 2019), <https://doi.org/10.1093/oso/9780198791355.003.0006>
7. Carlo Vittorio Giabardo, Disobeying Courts' Orders—A Comparative Analysis of the Civil Contempt of Court Doctrine and of the Image of the Common Law Judge, 10 *J. Civ. L. Stud.* (2017) Available at: <https://digitalcommons.law.lsu.edu/jcls/vol10/iss1/5>
8. Mathias Siems *Comparative law*. University of Durham. Cambridge, United Kingdom : Cambridge University Press, 2018. ISBN 9781107182417. ISBN 9781316633557
9. George Mousourakis? Matteo Nicolini. *Comparative Law and Legal Traditions. Historical and Contemporary Perspectives*. Ritsumeikan University Kyoto, Japan. ISBN 978-3-030-28280-6 ISBN 978-3-030-28281-3 (eBook) <https://doi.org/10.1007/978-3-030-28281-3>. Springer. 2019
10. *International Encyclopedia of Comparative Law*. Tubingen, 1980.
11. Klabbers J. *Civil law*. Cambridge University Press, 2019. 370 p.
12. Lukasevych-Krutnyk I. S. The concept and methods of harmonisation of the private law legislation of Ukraine in the field of provision of transport services with the legislation of the European Union. *Journal of the National Academy of Legal Sciences of Ukraine*, 2020, 27 (2), p. 91-106. URL: <http://visnyk.kh.ua/uk/article/ponyattya-ta-sposobi-garmonizatsiyi-privatnopravovogozakonodavstva-ukrayini-v-sferi-nadannya-transportnikh-poslug-iz-zakonodavstvom-yevropeyskogo-soyuzu>
13. Zimmermann R. *Comparative Law and the Europeanization of Private Law* Get access Arrow. *The Oxford Handbook of Comparative Law* (2nd edn). 2019. Pages 557–598. <https://doi.org/10.1093/oxfordhb/9780198810230.013.17>
14. Henry Merryman, David S. *The Common Law and Civil Law Traditions*. URL: <https://www.law.berkeley.edu/wp-content/uploads/2017/11/CommonLawCivilLawTraditions.pdf>
15. Janet Halley, Kerry Rittich, *Critical Directions in Comparative Family Law: Genealogies and Contemporary Studies of Family Law Exceptionalism*, *The American Journal of Comparative Law*, Volume 58, Issue 4, Fall 2010, Pages 753–775. <https://doi.org/10.5131/ajcl.2010.0001>

**Information resources:**

1. Official web portal of the Verkhovna Rada of Ukraine. URL: <http://portal.rada.gov.ua/>.
2. Official website of the President of Ukraine. URL: <http://www.president.gov.ua/>
3. Unified web portal of executive authorities of Ukraine. URL: <http://www.kmu.gov.ua/>
4. Official web portal of the judiciary of Ukraine. URL: <http://court.gov.ua/>
5. Unified State Register of Court Decisions URL: <https://reyestr.court.gov.ua/>
6. Official web portal of the United Nations Commission on International Trade Law (UNCITRAL). URL: <https://uncitral.un.org/en>
7. Official website of the Hague Conference on Private International Law. URL: <https://www.hcch.net/ukrainian>