

# Summary Table of Contents

Preface

About the Authors

Table of Contents

## PART I

Chapter 1– Introduction

Chapter 2 – Legal Families

Chapter 3 – Requirements for Studying Foreign Law

Chapter 4 – Comparative Law Methods

## PART II

Chapter 5 – Methods in the U.S. – Common Law

Chapter 6 – United Kingdom Resources – Common Law

## PART III

Chapter 7 – Methods in Europe – Civil Law

Chapter 8 – Russia Resources – Civil Law

Chapter 9 – European Union Resources – Civil Law

## PART IV

Chapter 10 – China Resources - Law in the Far East

## PART V

Chapter 11 – Public International Law Resources

Chapter 12 – International Organizations’ Resources

## APPENDIX

# Table of Contents

<b>Preface</b> .....	<b>ix</b>
<b>About the Authors</b> .....	<b>xv</b>
<b>Summary Table of Contents</b> .....	<b>xvii</b>
<b>Table of Contents</b> .....	<b>xix</b>
<b>Chapter 1</b> .....	<b>1</b>
<b>Introduction</b> .....	<b>1</b>
1.1. Why one cannot use his/her own legal methods on foreign material .....	1
1.2. Overview of division of “sources-of-law” in different areas .....	2
1.2.1. <i>Chart on Law-Sources in Public International Law</i> .....	3
1.2.2. <i>Chart on Law-Sources in the United States</i> .....	3
1.2.3. <i>Chart on Law-Sources in Civil Law</i> .....	4
1.2.4. <i>Chart on Law-Sources in European Union Law</i> .....	4
1.3. Short overview of differences between common law and Civil Law .....	5
1.4. How to use the material – US common law – Civil Law (not filling in gaps but making interpretations) .....	11
1.4.1. <i>Translations</i> .....	12
1.4.2. <i>Interpretation</i> .....	12
1.4.2.1. Interpretation in the United States .....	13
1.4.2.2. Interpretation in Civil Law .....	19
1.4.2.3. Interpretation in International Law .....	20
1.4.2.4. Interpretation in European Union .....	22
1.5. Global Legal Information Network .....	23
1.6. Further Reading (updates at corresponding website) .....	24
<b>Chapter 2</b> .....	<b>27</b>
<b>Legal Families</b> .....	<b>27</b>
2.1. Introduction .....	27
2.2. A suggested division into legal families .....	28
2.3. Further Reading (updates at corresponding website) .....	32
<b>Chapter 3</b> .....	<b>35</b>
<b>Requirements for Studying Foreign Law</b> .....	<b>35</b>
3.1. Introduction .....	35
3.2. The First Heavy Task – Reading a Foreign language – Caveat as to Translations .....	36
3.3. The Second Heavy Task – Choosing a Foreign country to investigate ..	40

3.4. The Third Heavy Task – Knowing basic differences between civil and common law .....	41
3.5. The Fourth Heavy Task – Knowing the investigated specific country’s legal research method.....	41
3.6. Comparative Method or Nothing.....	41
3.7. “Getting into the Country” .....	42
3.7.1. <i>The Country’s structure</i> .....	43
3.7.1.1. Default scenario: Continental European Civil Law Country .....	44
3.7.1.2. In Civil Law skill at interpretation of statutory text is a requirement .....	47
3.7.2. <i>Online Searching</i> .....	47
3.7.3. <i>Westlaw databases</i> .....	48
3.9. Conclusion.....	50
3.10. Further Reading (updates at corresponding website).....	51
3.11. Various Exercises .....	52
3.11.1. <i>Sample country datasheet</i> .....	52
3.11.2. <i>Statutory interpretation example</i> .....	53
<b>Chapter 4.....</b>	<b>55</b>
<b>Comparative Law Methods.....</b>	<b>55</b>
4.1. Introduction – Not just comparison .....	56
4.2. About the Method.....	60
4.3. A Plan .....	65
4.4. Advice & Comments.....	67
4.5. When to stop.....	71
4.6. Further Reading (updates at corresponding website).....	71
<b>Chapter 5.....</b>	<b>75</b>
<b>Methods in the U.S. – A Common Law Method.....</b>	<b>75</b>
5.1. U.S. Common Law Basics for Non-Americans .....	77
5.1.1. <i>Introduction</i> .....	77
5.1.2. <i>State sovereignty</i> .....	80
5.1.3. <i>Life for the American law student</i> .....	81
5.1.4. <i>Law Making Bodies in the United States</i> .....	85
5.1.5. <i>Tools for Legal Research in the U.S.</i> .....	87
5.2. Effective Legal Research .....	88
5.2.1. <i>Secondary Sources First</i> .....	88
5.2.1.1. Treatises .....	90
5.2.1.2. Looseleaf services .....	91
5.2.1.3. Hornbooks .....	92
5.2.1.4. Legal Encyclopedias.....	93

5.2.1.5. Law Review Articles .....	93
5.2.1.6. Legal Scholarship Network.....	95
5.2.1.7. Blogs and blawgs.....	97
5.2.1.8. American Law Reports (ALR).....	97
5.2.1.9. Restatements of the Law .....	99
5.2.1.10. Legal Dictionaries .....	101
5.2.2. <i>The Constitution of the United States of America – the</i> <i>“supreme law of the land”</i> .....	102
5.2.3. <i>Legal Citations</i> .....	103
5.2.4. <i>Statutes</i> .....	104
5.2.4.1. State legislation.....	114
5.2.4.2. Legislative Histories .....	121
5.2.5. <i>Regulations and administrative law decisions</i> .....	124
5.2.5.1. How to find regulations.....	128
5.2.5.2. How to Update Regulations .....	130
5.2.5.3. Executive Orders .....	133
5.2.5.4. Regulations.gov .....	133
5.2.5.5. Agency decisions.....	134
5.2.5.6. State administrative law resources .....	135
5.2.5.7. Online sources of administrative law .....	135
5.2.6. <i>Case Law Research</i> .....	136
5.2.6.1. State court system.....	142
5.2.6.2. Publication of judicial decisions .....	145
5.2.6.2.1. Published and unpublished.....	145
5.2.6.2.2. Official and unofficial .....	146
5.2.6.2.3. Trial and appellate courts .....	147
5.2.6.2.4. Reporters.....	147
5.2.6.2.5. Publication of Federal Court Decisions – U.S. Supreme Court.....	147
5.2.6.2.6. Lower Federal Court Reporting.....	148
5.2.6.2.7. Publication of State Court Decisions .....	150
5.2.6.2.8. Indexing Case Law .....	151
5.3. Boolean Searching and Natural Language Full Text Searching .....	156
5.4. WestlawNext .....	160
5.5. LexisNexis and Westlaw are not the only online games in town .....	162
5.5.1. <i>Law.gov</i> .....	163
5.5.1.1. The Promise and Potential of Law.gov .....	163
5.5.1.2. RECOP .....	166
5.5.2. <i>Justia.com</i> .....	167
5.5.3. <i>Bloomberg Law (BLAW)</i> .....	168

5.5.4. <i>Occam, Inc.</i> .....	170
5.5.5. <i>HeinOnline</i> .....	171
5.6. Shepardizing .....	172
5.7. When to Stop Researching .....	181
5.8. Hybrid Legal Research is Most Effective .....	182
5.9. Conclusion .....	183
5.10. Further Reading (updates at corresponding website) .....	184
5.10.1. <i>Books</i> .....	184
5.10.2. <i>Articles</i> .....	187
5.11. Various Exercises (updates at corresponding website) .....	188
5.11.1. <i>Exercise 1</i> .....	188
5.11.2. <i>Exercise 2</i> .....	189
5.11.3. <i>Exercise 3</i> .....	189
5.11.4. <i>Exercise 4</i> .....	189
<b>Chapter 6</b> .....	<b>191</b>
<b>England Resources – Common Law</b> .....	<b>191</b>
6.1. The Executive & the Cabinet .....	192
6.2. The Government .....	192
6.3. Acts / Laws & Parliament .....	193
6.4. Courts .....	194
6.5. Citation for case law .....	196
6.6. Sources .....	198
6.6.1. <i>Primary Sources</i> .....	198
6.6.2. <i>Secondary Sources</i> .....	199
6.7. Where to find resources .....	200
6.8. Further Reading (updates at corresponding website) .....	201
<b>Chapter 7</b> .....	<b>203</b>
<b>Methods in Europe - A Civil Law Method</b> .....	<b>203</b>
7.1. Civil Law Basics for Americans .....	203
7.1.1. <i>Introduction</i> .....	205
7.1.1.1. Some terms for the American Student/Scholar to keep in mind .....	211
7.1.2. <i>State sovereignty</i> .....	215
7.1.3. <i>The European Continental Court System</i> .....	215
7.1.3.1. Where to find case decisions .....	218
7.1.4. <i>Legislation - Codes</i> .....	219
7.1.4.1. Where to find acts/codes .....	221
7.1.5. <i>Law Reviews/Journals in Europe</i> .....	223
7.1.6. <i>The Legal Families of Continental Europe</i> .....	225
7.1.6.1. Some basic books for different European countries written	

in English by natives.....	228
7.1.7. <i>Legal Science and Legal Philosophy</i> .....	229
7.1.8. <i>Citations</i> .....	230
7.2. Legal Research.....	231
7.2.1. <i>Introduction</i> .....	231
7.2.2. <i>Legal Methodology</i> .....	233
7.2.3. <i>The Legal Method in Principle</i> .....	235
7.3. The Method in Detail.....	237
7.3.1. <i>Law-sources</i> .....	237
7.3.1.1. Hard (or binding) law- sources.....	239
7.3.1.1.1. Juridical precepts.....	239
7.3.1.1.2. Decisions.....	240
7.3.1.1.3. Customary law.....	241
7.3.1.2. Soft Law.....	242
7.3.1.2.1. Preparatory work.....	242
7.3.1.2.2. Statements by the Parliamentary Ombudsman.....	243
7.3.1.2.3. Legal Literature describing already Existing Rules or Law.....	243
7.3.1.2.4. Private source of law.....	245
7.3.1.2.5. Legal Cultural Tradition.....	246
7.3.2. <i>Use of the source of law</i> .....	246
7.3.3. <i>Interpretation of the law-sources</i> .....	247
7.3.3.1. Statutes.....	248
7.3.3.2. Court decisions – Finding Precedential Authority.....	249
7.3.4. <i>Relations between National Law and International / E.U. Law</i> .....	252
7.3.4.1. Monistic versus Dualistic Idea.....	252
7.3.4.2. National law versus E.U. Law.....	253
7.4. When to Stop.....	255
7.5. Conclusion / Recap.....	255
7.5. Further Reading (updates at corresponding website).....	255
<b>Chapter 8.....</b>	<b>257</b>
<b>Russia Resources – Civil Law.....</b>	<b>257</b>
8.1. Russia – Short Overview.....	257
8.2. Miscellaneous Russian material in English.....	262
8.3. Further Reading (updates at corresponding website).....	263
<b>Chapter 9.....</b>	<b>265</b>
<b>European Union Resources – Civil Law.....</b>	<b>265</b>
9.1. Introduction.....	265
9.1.1. <i>The Legal Base for the European Union</i> .....	269

9.1.2. National Parliaments.....	271
9.1.3. Principles of Conferral, Subsidiarity and Proportionality....	272
9.1.4. Legislative Procedure.....	274
9.1.5. Charter of Fundamental Rights.....	279
9.1.6. Withdraw or Opt-out .....	281
9.2. Institutions .....	281
9.2.1. The European Parliament .....	284
9.2.2. The European Commission .....	285
9.2.3. The Council of the European Union .....	285
9.2.4. European Council.....	286
9.2.5. “Presidents” in the E.U.....	288
9.2.6. European External Action Service & the High Representative .....	289
9.2.7. The E.U. Courts .....	290
9.2.8. The European Judicial Cooperation Unit.....	294
9.2.9. The Former Pillars of the European Union.....	295
9.2.10. E.U. Member States .....	297
9.3. Sources of E.U. law.....	299
9.3.1. Hard and soft Law in E.U.....	299
9.3.2. E.U. “law” and Language .....	301
9.3.3. Interpretation of E.U. Statutory law.....	311
9.4. Where to find E.U. material .....	314
9.4.1. Treaties.....	318
9.4.2. Regulations, Directives & Decisions: .....	318
9.4.3. Preparatory Documents (COMDocs) .....	319
9.4.4. Official Journal.....	319
9.4.5. E.U. Case law .....	319
9.4.6. Advocate-General’s documentation.....	323
9.4.7. E.U. Ombudsman’s documentation .....	323
9.4.8. Parliamentary documentation.....	323
9.4.9. Commission documentation .....	325
9.4.10. Consilium (Council of the European Union).....	326
9.4.11. European Council documentation.....	327
9.4.12. E.U. President documentation .....	327
9.4.13. E.U. Foreign Minister documentation .....	327
9.4.14. Implementing national laws .....	327
9.4.15. EUR-Lex.....	327
9.4.16. Miscellaneous .....	329
9.5. Citations.....	332
9.5.1. Official Journal.....	332





11.5.4.3. Certain National Tribunals with larger impact .....	366
11.5.5. <i>Writings of Publicists and Authors</i> .....	367
11.5.6. <i>Resolutions and declarations of International Organizations</i> .....	368
11.6. Where to find material .....	368
11.7. Citations.....	371
11.8. Further Reading (updates at corresponding website).....	373
<b>Chapter 12</b> .....	<b>377</b>
<b>International Organizations’ Resources</b> .....	<b>377</b>
12.1. International Organizations – Short Overview .....	377
12.2 Further Reading (updates at corresponding website).....	378
<b>APPENDIX</b> .....	<b>380</b>
1. Glossary: Terms & Abbreviations .....	381
2. Citations and Signals for U.S. material.....	415
3. Courts in U.S. Federal Circuits .....	420
4. U.S. Library of Congress Classification System .....	422
5. Some Popular Databases in Westlaw .....	424
6. Sample Syllabus – U.S. Legal Research.....	428
7. Sample Syllabus – European Union .....	430
8. Sample Syllabus – Non-US & E.U.-Law Material .....	432
9. Tables.....	434
10. Index .....	437