INTRODUCTION TO THE GERMAN LEGAL SYSTEM

Contents

§1 Introduction

- I. Why studying foreign law?
- II. Why studying German law?
- III. The difficulties of studying German law in English
- IV. Access to laws, jurisprudence and literature on German law

Part I: General characteristics and fundamentals of the German legal system

§ 2 German law as a continental-European legal system

- I. A legal system following the continental-European tradition
- II. A legal system based on Roman law, own legal traditions and sophisticated legislation (including codifications)
- III. A legal culture with a strong systematic and methodological approach
- IV. A federal legal system
- V. A legal system more and more influenced by European integration
- VI. A legal system leaning on a demanding academic and professional legal education 1) Studying law in Germany
 - 2) The general legal traineeship [Rechtsreferendariat]

§ 3 Sources of German law

- I. The Basic Law (constitution)
- II. Statutory law
- III. Ordinances and by-laws
- IV. Customary law
- V. Non-German law applicable in Germany
 - 1) European Union law
 - 2) Customary public international law
- VI. No source of law but practically important: jurisprudence
- VII. The hierarchy of laws

§4 The German judiciary

- I. The important role of the courts in the German legal system
- II. Relying on independent, incorruptible and highly qualified judges
- III. The population's high level of trust in the judiciary
- IV. Overview over the German court system

§ 5 German legal methodology

- I. Not a distinct national methodology but an advanced and influential manifestation of continental-European legal methodology
- II. Distinction between legal principles and rules
- III. Distinction between requirements and legal consequences of the legal norm
- IV. Special consideration for human and fundamental rights and constitutional principles
- V. The broad spectrum of legal methods
- VI. In particular: legal interpretation
- VII. In particular: analogy
- VIII. In particular: the advanced techniques of practical legal case-solving
 - IX. Judicial further development of law

Part II: The fields of German law

§ 6 The general structure of German law

- I. Detailed systematic organisation into fields and sub-fields of law
- II. The legal fields of private/civil law [Privatrecht/Zivilrecht]
- III. The legal fields of criminal law [Strafrecht]
- IV. The legal fields of public law [öffentliches Recht]
- V. The role of European Union law and international law in the German legal system

§7 Basics of German private law

- I. Historical development and structure
- II. The German Civil Code [Bürgerliches Gesetzbuch]
 - 1) General Part [Allgemeiner Teil]
 - 2) Law of obligations [Schuldrecht]
 - 3) Property law [Sachenrecht]
 - 4) Family law [Familienrecht]
 - 5) Law of succession [Erbrecht]
- III. Private international law (conflict of laws) [Internationales Privatrecht]
- IV. Commercial law [Handelsrecht] and company law [Gesellschaftsrecht]
- V. Other fields of private law
- VI. The perspective: towards a European Civil Code?

§8 Basics of German criminal law

- I. Historical development and structure
- II. Introduction to the German Criminal Code [Strafgesetzbuch]
- III. General part of German criminal law
 - 1) The basic structure of criminal offences
 - 2) Intention and negligence
 - 3) Unlawfulness, grounds of justification and culpability [Schuld]
 - 4) Mistakes [Irrtümer]
 - 5) Perpetration [Täterschaft] and participation [Teilnahme]
 - 6) Crimes of omission [Unterlassungsdelikte]
- IV. Special part of German criminal law (the specific offences)
- V. Criminal procedural law

- Contents (Introduction to the German Legal System), page 3 -

§ 9 Basics of German public law

- I. Historical development and structure
- II. Constitutional law [Verfassungsrecht]
 - 1) The German contribution to constitutional theory
 - 2) The Basic Law for the Federal Republic of Germany [Grundgesetz]
 - 3) Germany as a free and democratic constitutional state
 - 4) In particular: Germany as a state based on the rule of law [Rechtsstaat]
 - 5) The German parliamentary governing system
 - 6) Fundamental rights
 - 7) The Federal Constitutional Court [Bundesverfassungsgericht]
- III. Administrative law [Verwaltungsrecht]
 - 1) General principles and concepts of administrative law
 - 2) Administrative action
 - 3) Administrative procedure
 - 4) Special administrative law
 - 5) Judicial control of public administration in Germany
- IV. The influence of German public law on the development of public law in Europe and beyond

More information on this course at <u>www.iuspublicum-thomas-schmitz.uni-goettingen.de</u> and Canvas. For any questions, suggestions and criticism please contact me in office 219, via WhatsApp or via e-mail (<u>tschmit1@gwdg.de</u>).

(Datei: Contents (GermanLegalSystem))