

Table of Contents

Preface	ix
About the Authors.....	xv
Summary Table of Contents	xvii
Table of Contents	xix
Chapter 1.....	1
Introduction	1
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
Chapter 2.....	27
Legal Families	27
2.1. Introduction	27
2.2. A suggested division into legal families	28
2.3. Further Reading (updates at corresponding website)	32
Chapter 3.....	35
Requirements for Studying Foreign Law.....	35
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
Chapter 4.....	55
Comparative Law Methods.....	55
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
Chapter 5.....	75
Methods in the U.S. – A Common Law Method.....	75
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
Chapter 6	191
England Resources – Common Law	191
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
Chapter 7	203
Methods in Europe - A Civil Law Method	203
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. <i>Legal Research</i>	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. <i>The Method in Detail</i>	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. <i>When to Stop</i>	255
7.5. <i>Conclusion / Recap</i>	255
7.5. <i>Further Reading (updates at corresponding website)</i>	255
Chapter 8.....	257
Russia Resources – Civil Law	257
8.1. <i>Russia – Short Overview</i>	257
8.2. <i>Miscellaneous Russian material in English</i>	262
8.3. <i>Further Reading (updates at corresponding website)</i>	263
Chapter 9.....	265
European Union Resources – Civil Law.....	265
9.1. <i>Introduction</i>	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

9.5.2. <i>E.U. Ombudsman</i>	333
9.5.3. <i>Regulations</i>	333
9.5.4. <i>Directive</i>	333
9.5.5. <i>Court Decisions</i>	334
9.6. Reader information for Directory of Community Legislation	334
9.6.1. <i>Presentation of documents</i>	335
9.6.2. <i>The document number</i>	335
9.6.3. <i>Title</i>	336
9.6.4. <i>The publication reference</i>	336
9.6.5. <i>References to amending acts</i>	337
9.6.6. <i>References to consolidated texts</i>	337
9.6.7. <i>Document retrieval</i>	337
9.6.8. <i>Explanation of codes</i>	338
9.7. Further Reading (updates at corresponding website).....	340
9.8. Various Exercises (updates at corresponding website)	341
9.8.1. <i>Exercise 1</i>	341
9.8.2. <i>Exercise 2 - Terminology exercises</i>	342
Chapter 10	343
China Resources - Law of the Far East	343
10.1. China – Short Overview.....	343
10.2. Miscellaneous Chinese material in English.....	347
10.3. Further Reading (updates at corresponding website).....	348
Chapter 11	349
Public International Law Resources	349
11.1. Introduction	349
11.2. Monists versus Dualists	351
11.3. Sources of Public International Law.....	351
11.4. Interpretation of international instruments & Travaux Préparatoires .	354
11.5. Where to find public international law?	357
11.5.1. <i>Customary Rules of International Law</i>	357
11.5.1.1. Customary Norms of Different “Sanctity”	358
11.5.1.1.1. <i>Ius/Jus Cogens</i>	358
11.5.1.1.2. <i>Erga Omnes</i>	359
11.5.1.1.3. Differences between <i>Jus Cogens</i> and <i>Erga Omnes</i>	359
11.5.2. <i>Treaties</i>	360
11.5.3. <i>General Principles of Law</i>	364
11.5.4. <i>Decisions of the Tribunals</i>	365
11.5.4.1. International Tribunals	366
11.5.4.2. Regional Tribunals	366

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
Chapter 12	377
International Organizations' Resources	377
12.1. International Organizations – Short Overview.....	377
12.2 Further Reading (updates at corresponding website).....	378
APPENDIX	380
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