INTRODUCTION TO THE GERMAN LEGAL SYSTEM

Jennifer Allison
J.D., M.L.I.S., LL.M. (Würzburg)
Librarian for Foreign, Comparative, and International Law
Harvard Law School Library

https://guides.library.harvard.edu/GermanLaw

July 2020
Even though English is a Germanic language, English legal terms are largely borrowed from French, rather than German. This means that German legal language isn‘t always easily decipherable by native English speakers.

See https://guides.library.harvard.edu/ld.php?content_id=41713145 for a list of print and electronic dictionaries and language aids.

My most frequent online go-to is Linguee: https://www.linguee.de/
<table>
<thead>
<tr>
<th>German</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>Das Recht</td>
<td>Law (as a concept)</td>
</tr>
<tr>
<td>Das Buch</td>
<td>Book</td>
</tr>
<tr>
<td>Das Gesetz</td>
<td>Law, Act, Statute</td>
</tr>
<tr>
<td>Das Gesetzbuch</td>
<td>Statutory Code</td>
</tr>
<tr>
<td>Das Gesetzblatt</td>
<td>Gazette</td>
</tr>
<tr>
<td>Öffentliches Recht</td>
<td>Public Law</td>
</tr>
<tr>
<td>Privatrecht</td>
<td>Private Law</td>
</tr>
<tr>
<td>Bürgerliches Recht</td>
<td>Law of the Citizenry</td>
</tr>
</tbody>
</table>
## Legal Vocabulary

<table>
<thead>
<tr>
<th>German</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>Die Verfassung</td>
<td>Constitution</td>
</tr>
<tr>
<td>Verwaltungsrecht</td>
<td>Administrative Law</td>
</tr>
<tr>
<td>Strafrecht</td>
<td>Criminal Law</td>
</tr>
<tr>
<td>Zivilprozessordnung</td>
<td>Civil Procedure</td>
</tr>
<tr>
<td>Strafprozessordnung</td>
<td>Criminal Procedure</td>
</tr>
<tr>
<td>Handelsrecht</td>
<td>Commercial Law</td>
</tr>
<tr>
<td>Rechtsprechung</td>
<td>Case Law</td>
</tr>
<tr>
<td>Verordnung</td>
<td>Administrative Regulation</td>
</tr>
</tbody>
</table>
ÖFFENTLICHES RECHT (public law)
Govern legal relationships between private individuals and the government.

Privatrecht (private law)
Govern legal relationships between private individuals.

Source:
ÖFFENTLICHES RECHT
(public law)

Primary legal instrument:
The Basic Law (Das Grundgesetz)
Enacted in 1949
Grundgesetz für die Bundesrepublik Deutschland

Basic Law for the Federal Republic of Germany

Bundesgesetzblatt (BGBl.) (Federal Gazette) I, p. 1

(23 May, 1949)

This exact source can be found in a U.S. legal database relatively easily. Any idea where that is?
Grundgesetz für die Bundesrepublik Deutschland

Basic Law for the Federal Republic of Germany

Bundesgesetzblatt (BGBl.) (Federal Gazette) I, p. 1
(May 23, 1949)

Source:
HeinOnline World Constitutions Illustrated
Book I covers basic rights.

The other ten books outline the structure and powers of the government.
**PRIVATRECHT** *(private law)*

Governs legal relationships and obligations between private individuals.

Establishes the freedoms, rights, duties, risks, and claims that people have in relation to one another under the law.

Sources:

BÜRGERLICHES GESETZBUCH (Helmut Köhler ed., 79th ed. 2017);
Since Ancient Rome, private law has resolved conflicts between people, and ensured that the interests of individuals are protected.
In the German legal system, there are two types of private law:

**Bürgerliches Recht**
*(Law of the Citizenry)*
applies to all people equally.

**Sonderprivatrecht**
*(Special Private Law)*
applies only to selected people, such as merchants (*Kaufleute*).
PRIVATRECHT (private law)

Primary legal instrument: The Civil Code (Das Bürgerliches Gesetzbuch)

Originally enacted in 1900
Current version enacted in 2002
The pre-1900 history of what is known today as Germany was very complicated.

This meant that the Civil Code enacted by Germany in 1900 had many historical influences.
German Confederation, 1815
(Outlined in red on the map)

• Kingdom of Denmark
• Kingdom of Hanover
• Kingdom of Prussia
• Kingdom of Saxony
• Grand Duchy of Luxembourg
• Kingdom of Württemberg
• Kingdom of Bavaria
• Empire of Austria
• Kingdom of Lombardo-Venetia
• Other territories of various types

Source:
https://commons.wikimedia.org/wiki/File:Europe_1815_map_en.png
The German Empire, 1871
(Outlined in red on map)

- Grand Duchy of Mecklenburg-Strelitz
- Grand Duchy of Oldenberg
- Kingdom of Prussia
- Kingdom of Saxony
- Grand Duchy of Hessen
- Kingdom of Württemberg
- Grand Duchy of Baden
- Imperial Territory of Alsace-Lorraine
- Kingdom of Bavaria
- Other free cities and provinces

Source:
https://commons.wikimedia.org/wiki/File:Deutsches_Reich_(1871-1918)-de.svg
The Civil Code: Historical Predecessors

Codes Maximilianeus Bavaricus Civilis (1751)

Civil Code of Bavaria

Source: Making of Modern Law
Allgemeines Landrecht für die Preussischen Staaten (1794)

General Laws for the States of Prussia

Source: HathiTrust
The Civil Code: Historical Predecessors

Code Civil des Français (1804)

Civil Code of France

Source:
Making of Modern Law
Bürgerliches Gesetzbuch für das Königreich Sachsen (1863)

Civil Code for the Kingdom of Saxony

Source: Google Books
# The Civil Code: Vocabulary

<table>
<thead>
<tr>
<th>German</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>Das Bürgerliches Gesetzbuch</td>
<td>The Civil Code</td>
</tr>
<tr>
<td>Der Allgemeine Teil</td>
<td>General Part</td>
</tr>
<tr>
<td>Das Recht der Schuldverhältnisse</td>
<td>The Law of Obligations</td>
</tr>
<tr>
<td>Das Sachenrecht</td>
<td>Property Law ((Sachen = Things))</td>
</tr>
<tr>
<td>Das Familienrecht</td>
<td>Family Law</td>
</tr>
<tr>
<td>Das Erbrecht</td>
<td>Inheritance Law</td>
</tr>
</tbody>
</table>
The Civil Code

Google search for "buergerliches gesetzbuch"
Research Tips

German Law Research

This guide provides information about researching German law: books, other print materials, subscription databases, and free internet resources. The primary focus of this guide is on English-language materials, but German-language materials are also discussed.

This guide includes links to searches of the Harvard Library online catalog, HOLLIS. These search links are formatted like this:

https://guides.library.harvard.edu/GermanLaw

...
Germany
Federal Republic of Germany / Bundesrepublik Deutschland

Vielen Dank!