

Comparative Law

- comparison of legal rules of different national legal systems
 - comparative constitutional law / comparative private law / comparative criminal law
- in **Conflict of Laws** – criteria used in the rules are abstract
 - **characterization:**
 - **Ernst Rabel.**
 - ‘conceptions of an absolutely general character’
 - results of the study of comparative law
 - essential general principles of professedly universal application



CJEU, *Handte v TMCS*

‘Regulations are to be interpreted independently, having regard primarily to the objectives and general scheme of the Regulation itself, in order to ensure that it is applied uniformly in all the Contracting States.

Any characterisation should not be taken as referring to how the legal relationship in question before the national court is classified by the relevant national law.’

- **normative implications** (dogmatic/applied comparative law)
- **descriptive exercise** (*Max Rheinstein*)
 - foreign law inspiring national law
(B. Markesinis, *The Cambridge Law Journal* (2002), 61/2, 386)
 - solving an individual case (*Greatorex*)
 - interpretation of existing national rules
- produce **new legal insights**
 - loi uniforme & unification/**principles projects (DCFR, PECL, PETL, PEITL, ...)**
 - uniformity in interpretation
 - national legislation
- fundamentals in a certain area of law (to use elsewhere)