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TOPIC: Civil Law

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▶ 1 / Law of France (History , Structure , Sources)

▶ 2 / Law of Germany (History , Structure , Sources)

- ▶ History of law of France
- ▶ The legal history of France is commonly divided into three periods: that of the old French law (Ancien Droit), that of the Revolutionary or intermediary law (Droit révolutionnaire ou intermédiaire), and that of the Napoleonic law or Droit nouveau ('New law')

Structure of Civil Code

■ French Civil Code

- Preliminary Title
- Book I Of Persons
- Book II Of Property and of the Various Kinds of Property Rights
- Book III Of the Different Ways in Which Property Rights Can Be Acquired

■ German Civil Code

- Book I General Principles
- Book II Law of Obligations
- Book III Rights of Things
- Book IV Family Law
- Book V Law of Inheritance

- ▶ Structure of law of France
- ▶ The term civil law in France refers to private law (laws between private citizens, and should be distinguished from the group of legal systems descended from Roman Law known as civil law, as opposed to common law. The major private law codes include: The Civil Code, The Code of Civil Procedure, The Commercial Code, Structure of law of France

- ▶ Sources of law of France
- ▶ Legislation is seen as the primary source of French law. Unlike in common law jurisdictions, where a collection of cases and practices (known as the "common law") historically form the basis of law, the French legal system emphasizes statutes as the primary source of law

- ▶ History of law of Germany
- ▶ German Civil Code, German Bürgerliches Gesetzbuch, the body of codified private law that went into effect in the German empire in 1900. ... The concept of law embodied in the code was the gemeines Recht, the common law based on the 6th-century codification of Roman law put in force by the emperor Justinian

- ▶ Structure of law of Germany
- ▶ The most important reference of this area is the Civil Law Book (Bürgerliches Gesetzbuch, BGB), which consists of 5 major parts: the common/general part, the law of obligations, property law, family law and law of succession.

German court structure

- 5 separate branches of court (contrast France)
- Ordinary courts (civil and criminal)
 - First instance (local) courts: *Amtsgerichte*
 - Regional courts: *Landgerichte* (original jurisdiction on appeal)
 - Regional appellate courts: *Oberlandesgerichte* (points of law)
- Labour courts
 - Judge consults with employer and employee representatives
- Tax courts
- Social security courts
- Administrative courts



▶ Sources of law of Germany

- ▶ There are two sources of law in Germany: statute and customary. Statute (Gesetz) - includes the constitution, the codes and any additional statutes. This also includes regulations of the Federation, the Ministries of the Federation and the states. Local by-laws and rules are not considered Gesetz.

Sources of Civil Law System

- These are **the countries of written law**---- therefore “legislation” forms the **basic source of law**
- **Sources:**
 - 1- Legislation (Primary source)
 - 2- custom
 - 3- court decisions
 - 4- doctrinal or legal writing
 - 5- General principles of law