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# Digitalisation of Civil Procedure in Germany

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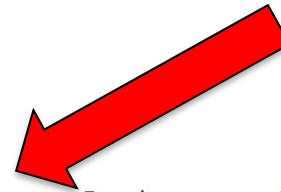
# Organisational Matters (1)

- How to get in touch?
  - Send an e-mail to: [p.reuss@uni-goettingen.de](mailto:p.reuss@uni-goettingen.de)
- Course materials are all online
  - NTU's administrative course system
  - [www.reusz.eu](http://www.reusz.eu)

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# Organisational Matters (2)

- Written Examination
  - final session (April 8<sup>th</sup> 2025, 12:20-13:10 o'clock)

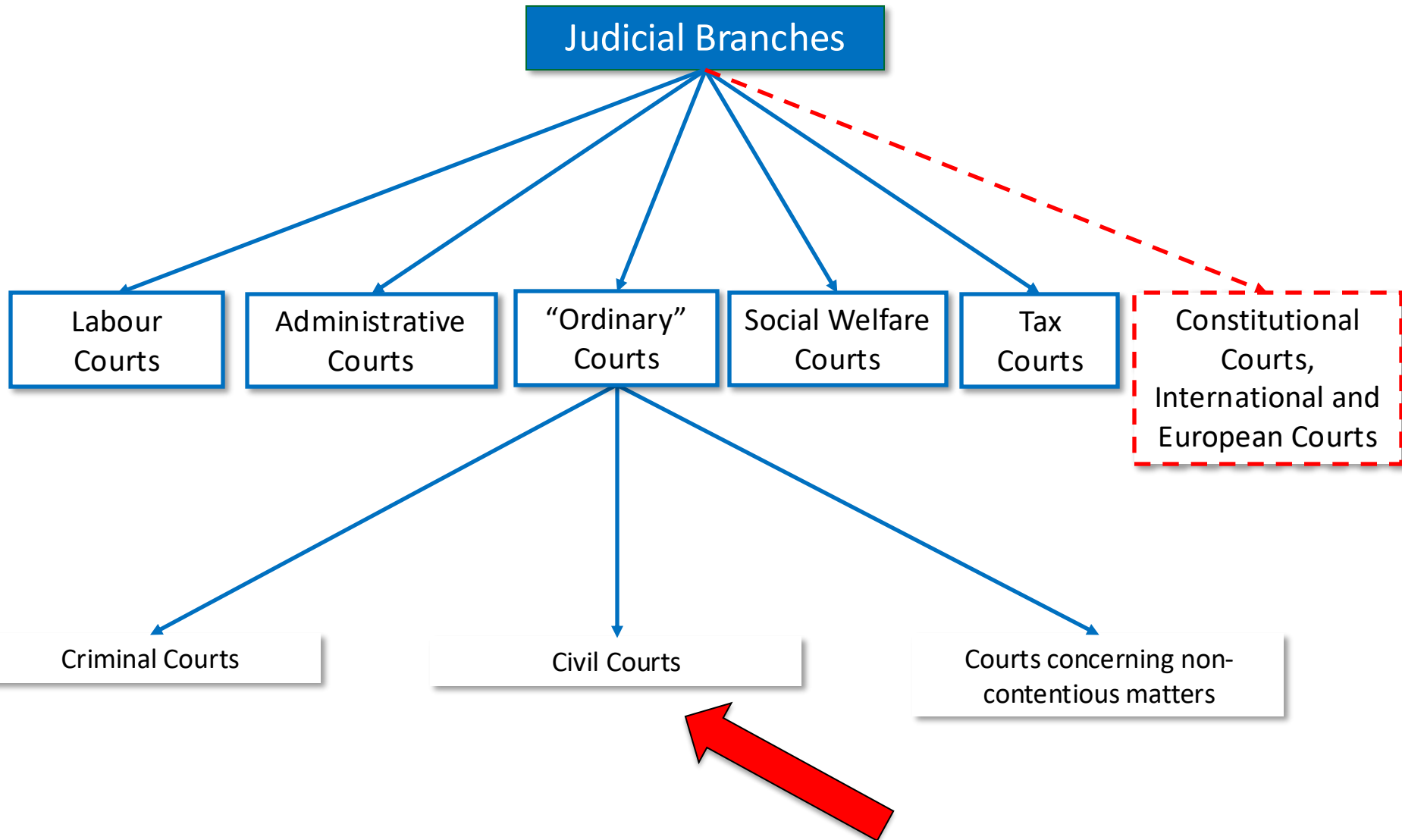


# Syllabus

- **1<sup>st</sup> Session: General Principles Part 1**
- **2<sup>nd</sup> Session: General Principles Part 2**
- **3<sup>rd</sup> Session: Current Problems and Alternatives to Civil Procedure**
- **4<sup>th</sup> Session: Courts and the Role of Judges**
- **5<sup>th</sup> Session: Jurisdiction**
- **6<sup>th</sup> Session: Oral Hearing**
- **7<sup>th</sup> Session: Virtual Hearings und Sec. 128 CPC**
- **8<sup>th</sup> Session: Evidence Part 1**
- **9<sup>th</sup> Session: Evidence Part 2**
- **10<sup>th</sup> Session: Claim, Judicial Case Management, and Cooperation**
- **11<sup>th</sup> Session: Structuring of party Submissions and „Standardised filing“**
- **12<sup>th</sup> Session: Special Types of Proceedings**
- **13<sup>th</sup> Session: Digital Access to Courts**
- **14<sup>th</sup> Session: Enforcement**

# General Principles Part 1

# 1. Civil Procedure in the German Justice System (1)





# 1. Civil Procedure in the German Justice System (2)

- Germany is a federal state
- Courts exist on **federal level** (e.g. Bundesgerichtshof = Federal Court of Justice) and on **regional level** (e.g. local courts = Amtsgerichte, regional courts = Landgerichte and higher regional courts = Oberlandesgerichte)



# 1. Civil Procedure in the German Justice System (3)

- The Term “Civil Procedure” and its meaning
  - **Procedure** → Latin: „*procedere*“ = to progress/develop
  - **Civil** → matters of civil law
- Regulated by **federal law**
  - Civil Procedure Code (Zivilprozessordnung)
  - Courts Constitution Act (Gerichtsverfassungsgesetz)

## Section 13 Courts Constitution Act

The ordinary courts shall have jurisdiction over the civil disputes, family matters and non-contentious matters (civil matters) as well as criminal matters for which neither the competence of administrative authorities nor the jurisdiction of the Administrative Courts (*Verwaltungsgerichte*) has been established and for which no special courts have been created or permitted by provisions of federal law.

- **State monopoly on enforcement of individual claims and rights**
  - no vigilante justice
  - Corresponding obligation of the state to provide effective legal protection
  - Corresponding right to effective legal protection, Art. 2 (1) in conj. with Art. 20 (3) Basic Law



## 2. Purposes of Civil Procedure

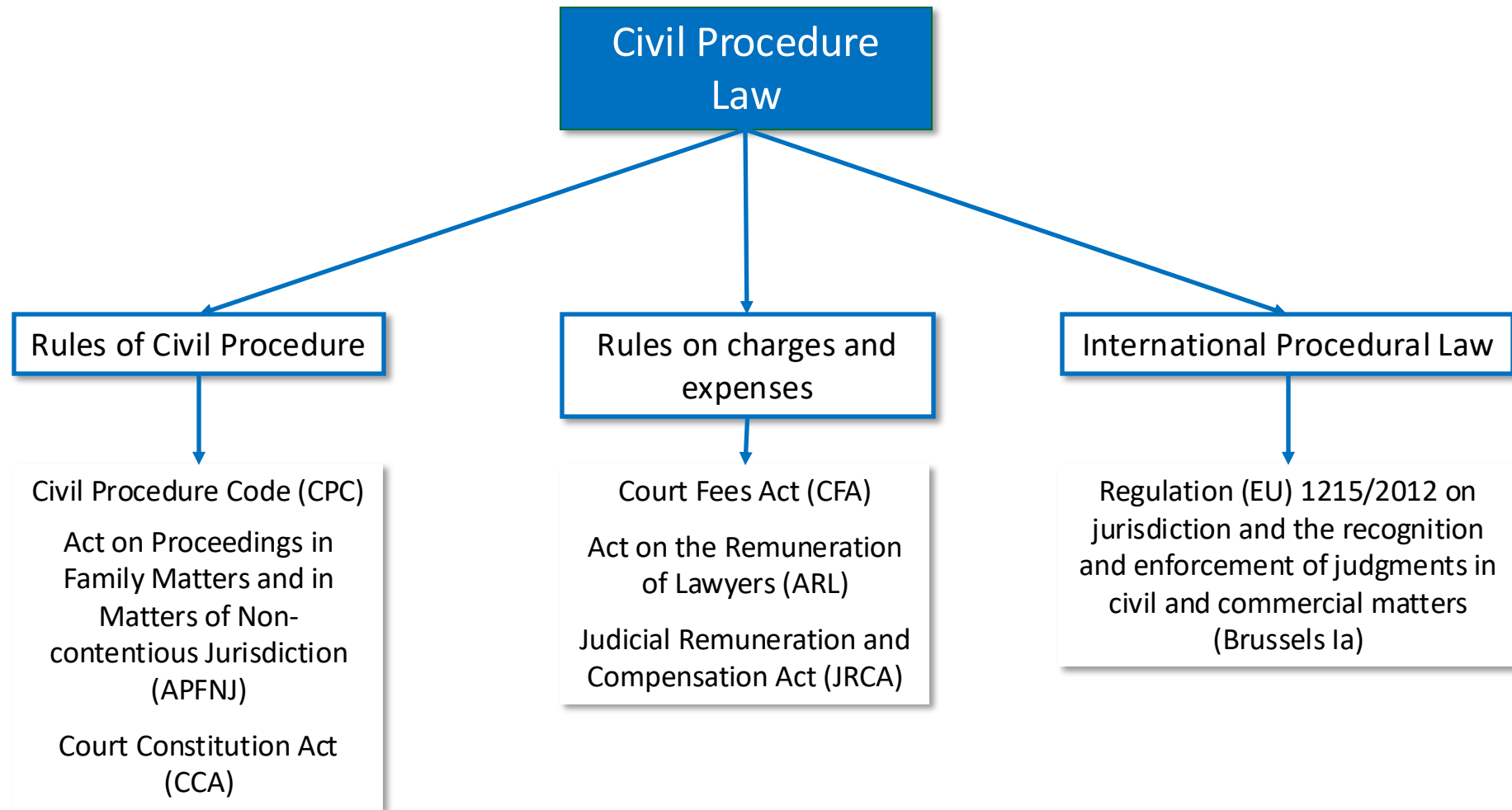
- Mechanism for the **orderly and effective resolution of civil disputes**
  - Providing **individual legal protection**
  - i.e. procedural **protection of subjective rights** that arise in the substantive law
    - main purpose
- Providing **legal security** and **peace under the law**
- **Perserving the objective law** and legal order
- **Development of the law**
  - Civil Law Systems vs. Common Law Systems
  - “Rule of Precedent” does not exist in German Civil Procedure Law (!)

### Section 543 (2) No 2 Civil Procedure Code (Admission to appeal)

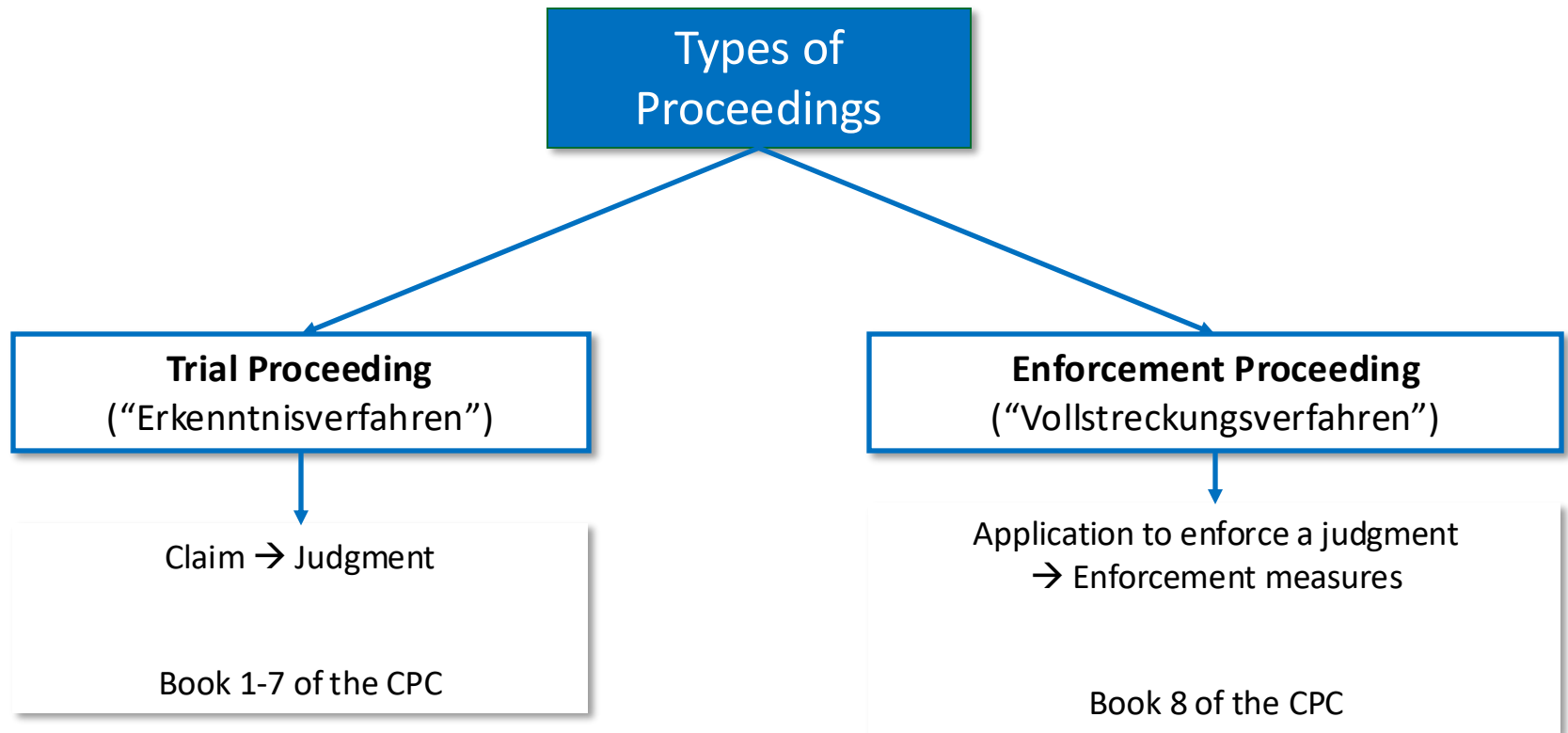
An appeal on points of law is to be admitted if:

- the further development of the law or the interests in ensuring uniform adjudication require a decision to be handed down by the court hearing the appeal on points of law.

### 3. Legal Basis of German and European Civil Procedure Law



## 4. Types of Proceedings



## 5. History of the CPC

### ■ Roots

- Roman law
  - Reception and Transformation into a common process
- Germanic Law

### ■ Procedural Laws of the German Empire (“Reichsjustizgesetze”)

- Influence of the French Code de procédure civile (1806) and legal frameworks of the individual German states (esp. royal procedural code of the Kingdom of Hannover, 1850)
- Coming into force October 1<sup>st</sup> 1879
  - Court Constitution Act (CCA)
  - Code of Civil Procedure (CPC)
  - Code of Criminal Procedure (CCC)

### ■ Various Reforms after World War II, e.g.

- Simplification amendment 1976 (concentration on one trial date; preparation in writing or early hearing; Stuttgart model)
- Legal basis for electronic legal correspondence 2001/2005 (e-file)
- CPC-reform 2001: reorganization of appellate procedure, conciliation hearing/mediation
- Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction, 2009 (APFNJ)
- Act on Promoting Electronic Communication with the Courts, October 10<sup>th</sup> 2013
- Act introducing a Guiding Decision Procedure (“Leitentscheidungsverfahren”), 2024

# Summary

- Civil Procedure in the German Justice System
- Purposes of Civil Procedure
- Legal Basis of German and European Civil Procedure Law
- Types of Proceedings
- History of the CPC