

Inhaltsverzeichnis

Vorwort	V
How to use the glossaries	VII
Autorenverzeichnis	XXIII
I.A Tort Law in the United States (<i>Michael R. McCurdy and Jason B. Robinson</i>)	1
1. Introduction	1
2. Types of Torts	2
2.1 Intentional	2
2.2 Negligence	3
2.3 Product Liability	5
2.4 Vicarious Liability	6
2.5 Other Types of Torts	6
3. Proving Liability	6
3.1 Burden of Proof	7
3.2 Duty	7
3.3 Proximate Cause	7
4. Damages	8
5. Governmental Considerations	8
6. Conclusion	8
I.B Tort Law in the United Kingdom (<i>Michael H. Whincup</i>)	9
1. Introduction	9
2. Negligence	10
2.1 Time limits	11
3. Vicarious Liability	11
3.1 Employment relationship	11
3.2 Course of employment	12
4. Nuisance	13
4.1 Private nuisance	14
4.2 Public nuisance	14
4.3 Rylands v Fletcher	14
5. Defamation	15
5.1 Defences	15
5.2 Privilege	16
5.3 Justification	16
5.4 Fair or honest comment	16
5.5 Apology	16
6. Miscellaneous	16
6.1 Malicious prosecution; false imprisonment	17
6.2 Deceit; misrepresentation	17
6.3 Inducing breach of contract	17
I.C Tort Law in Germany (<i>Carsten Heuel</i>)	18
1. Introduction	18
2. Liability for culpably committed wrong	18
2.1 Infringement of a right or an object enjoying legal protection (Section 823 (1) BGB)	19
2.1.1 Infringement of an object enjoying legal protection or of a right	19
2.1.2 Act or omission	20
2.1.3 Causality establishing liability	20

2.1.4	Unlawfulness.....	20
2.1.5	Fault.....	20
2.1.6	Damage.....	20
2.2	Breach of a protective law (Section 823 (2) <i>BGB</i>)	21
2.3	Impairment of credit standing (Section 824 (1) <i>BGB</i>)	21
2.4	Intentional immoral damage (Section 826 <i>BGB</i>)	21
3.	Liability for presumed fault of one's own.....	22
3.1	Liability for agents (<i>Verrichtungsgehilfen</i>)	22
3.2	Liability for keepers of animals (Section 833 <i>BGB</i>).....	22
3.3	Other liability for presumed fault.....	23
4.	Strict liability (<i>Gefährdungshaftung</i>).....	23
5.	Extent and amount of claims for damages.....	23
5.1	The general regulations of Section 249 <i>et seq. BGB</i>	23
5.2	Special regulations in Section 842 <i>et seq. BGB</i>	24
6.	Statutory limitation of tort claims.....	25

I.D The Law of Damages in Austria (*Gabriele Koziol*) 26

1.	Introduction	26
2.	Fault-Based Liability	26
2.1	Protected Rights and Interests.....	26
2.2	Causation	27
2.3	Wrongfulness (<i>Rechtswidrigkeit</i>)	27
2.4	Fault (<i>Verschulden</i>)	28
2.4.1	Subjective Standard.....	28
2.4.2	Minors.....	29
2.4.3	Contributory Negligence.....	29
2.5	Factors in Restricting Liability	30
2.5.1	Adequacy (<i>Adäquanz</i>)	30
2.5.2	Protective Purpose (<i>Schutzzweck</i>).....	30
3.	Non-Fault Based Liability	30
3.1	<i>ABGB</i>	30
3.2	Special Provisions.....	31
3.3	Product Liability.....	31
4.	Vicarious Liability.....	31
5.	Compensation	32
5.1	Compensation in Kind and in Money	32
5.2	Extent of Compensation.....	32
5.3	Calculation.....	32

Tort Law Glossary..... 33

Glossar Deliktsrecht/Schadenersatzrecht..... 40

II.A Civil Litigation in the United States (*Craig N. Johnson*)..... 47

1.	The Rules of Civil Procedure.....	47
2.	Jurisdiction	47
2.1	Subject Matter Jurisdiction	47
2.1.1	Jurisdiction in Federal Court.....	47
2.1.2	Jurisdiction in State Courts	48
2.2	Personal Jurisdiction	48
2.3	Venue	48
3.	Commencement of the Action.....	49

3.1	Pre-filing Investigation	49
3.2	Initial Pleadings	49
3.2.1	Complaint	49
3.2.2	Service of the Complaint	50
3.3	Responding to the Complaint	50
3.3.1	Motion to Dismiss	50
3.3.2	Answer to the Complaint	51
3.3.3	Counterclaims and Cross-Claims	51
3.3.4	Default Judgments	51
4.	Discovery	51
4.1	Initial Disclosures	52
4.2	Formal Discovery	52
4.2.1	Discovery by Written Interrogatory	53
4.2.2	Requests for the Production of Documents and Tangible Things	53
4.2.3	Discovery by Deposition	54
4.2.4	Requests for Admission	54
5.	Pretrial Motions	54
5.1	Summary Judgment	54
5.2	Motion to Determine a Question of Law	55
6.	Trial	55
6.1	Trial to a Judge or Jury	55
6.2	Selection of a Jury	56
6.3	Conduct of the Trial	56
7.	Post-Trial Proceedings and Appeal	56
7.1	Post-Trial Motions	57
7.2	Notice of Appeal	57
7.3	Appellate Review	57
7.4	Effect of an Appeal on the Enforceability of a Judgment	58
8.	Final Considerations	58
8.1	Costs and Fees in Civil Litigation	58
8.2	Timing of Civil Actions	58
II.B Civil Litigation in England and Wales (<i>Maeve Rees-Jones</i>)		59
1.	Definition	59
2.	A new era for civil litigation	59
3.	Applicability of the new rules	60
4.	Active management of cases	60
5.	Stages of civil litigation	60
5.1	Before proceedings begin	61
5.2	Launching civil proceedings	61
5.3	Before the trial takes place	62
5.4	During the trial	62
5.5	After the trial	62
II.C Civil Procedure Law in Germany (<i>Patrick Weis</i>)		64
1.	Introduction	64
2.	Prerequisites to be fulfilled for an action for specific performance (<i>Leistungsklage</i>)	64
2.1	Jurisdiction of the courts	66
2.2	Parties to a legal dispute	66
2.3	Out-of-court conciliation proceedings	66
2.4	Pleas	66

2.5	Proper filing of suit	66
2.6	Other types of actions and prerequisites for their admissibility	67
2.6.1	Action for a declaratory judgment	67
2.6.2	Action for change of a legal right or status	68
3.	Stages of proceedings after suit has been filed	68
3.1	Preliminary proceedings	68
3.2	Main phase	69
3.3	Court decision	70
3.4	Appeals	71
3.4.1	(First) Appeal (<i>Berufung</i>)	71
3.4.2	Second appeal (<i>Revision</i>)	72
3.5	Termination of proceedings without a court decision	72
4.	Special types of proceedings	73
4.1	Order for payment procedure	73
4.2	Summary proceedings exclusively based on documentary evidence (<i>Urkundenprozess</i>)	74
4.3	Independent taking of evidence procedure (<i>selbstständiges Beweisverfahren</i>)	75
4.4	Provisional measures/interim relief (<i>einstweiliger Rechtsschutz</i>)	75
5.	The law of evidence	76
5.1	The burden of proof	77
5.2	Need for proof	77
5.3	Means of evidence	77
5.3.1	Expert witness evidence	77
5.3.2	Documents	77
5.3.3	Inspection	77
5.3.4	Witnesses	77
5.3.5	Party examination	78
5.4	Evaluation of evidence	78
6.	Conclusion	78
II.D Civil Procedure Law in Austria (Gerrit Meier)		79
1.	The Organisation of the Austrian Courts	79
1.1	The Courts	79
1.2	Stages of Appeal	80
2.	The Civil Procedure	80
2.1	Commencement of Proceedings	80
2.2	Order for Payment Procedure (<i>Mahnverfahren</i>)	80
2.3	Regular Proceedings	81
2.4	Oral Hearing	81
2.5	Rulings – Closing the Case	82
2.5.1	<i>Beschluss</i>	82
2.5.2	Judgment (<i>Urteil</i>)	82
2.5.3	Settlement (<i>Vergleich</i>)	83
2.5.4	Suspension of proceedings (<i>Ruhen des Verfahrens</i>)	83
2.6	Legal Costs	83
2.7	Appeals	83
2.7.1	<i>Berufung</i> (first appeal)	83
2.7.2	<i>Revision</i> (second appeal)	84
2.7.3	<i>Rekurs</i> (appeal against a <i>Beschluss</i>)	84
2.7.4	<i>Revisionsrekurs</i> (second appeal against a <i>Beschluss</i>)	85

2.7.5 Nullity action (<i>Nichtigkeitsklage</i>) and action for resumption (<i>Wiederaufnahmsklage</i>)	85
2.8 Interim Injunctions (<i>einstweilige Verfügungen</i>)	85
2.9 Legal Professions	86
3. Non-Contentious Proceedings (<i>Außerstreitverfahren</i>)	86
4. Enforcement Proceedings (<i>Exekutionsverfahren</i>)	86
4.1 General Remarks	87
4.2 Approval Procedure	87
4.3 Enforcement	87
4.3.1 Enforcement of pecuniary claims	87
4.3.2 Execution because of other claims	88
Civil Procedure Glossary	89
Glossar Zivilprozessrecht	97
Musterdokumente	107
III.A Commercial Law in the United States (<i>John A. Leonard</i>)	131
1. Introduction to the Uniform Commercial Code	131
1.1 Sale of Goods – Article 2 of the Uniform Commercial Code	131
1.1.1 Scope	132
1.1.2 Need for Written Agreement	132
1.1.3 Offerors Should Control the Contract	132
1.1.4 Output and Requirements Agreements	132
1.1.5 Passing of Title	132
1.1.6 The Perfect Tender Rule	133
1.1.7 Right to Adequate Assurance and Performance/Anticipatory Repudiation	133
1.1.8 Remedies	134
1.1.9 Damages	134
1.1.10 Warranties and Disclaimer of Warranties	134
1.1.11 US Practice Tips	134
1.2 Secured Transactions – Article 9 of the Uniform Commercial Code	135
1.2.1 Scope	135
1.2.2 Attachment of a Security Interest	135
1.2.3 The Security Agreement	136
1.2.4 Perfection and Priority	136
1.2.5 The Financing Statement	136
1.2.6 Where to file?	137
1.2.7 Exceptions and Alternatives to Filing	137
1.2.8 Default and Remedies	137
1.2.9 US Practice Tips	138
III.B Commercial Law in the United Kingdom (<i>Michael H. Whincup</i>)	139
1. Introduction	139
2. The Sale of Goods Act	139
2.1 Quality and fitness of goods	139
2.2 Ownership	141
2.3 Retention of title	142
2.4 Risk	142
2.5 The right to sell	143
2.6 Performance of the contract	143
2.7 Remedies for breach of contract	144

3.	The Unfair Contract Terms Act.....	145
3.1	The Unfair Terms in Consumer Contracts Regulations.....	146
III.C Business Law in Germany (<i>Dirk Langner</i>)		147
1.	The term ‘business law’ in Germany.....	147
2.	Commercial law.....	147
2.1	Application of commercial law and the Commercial Register.....	147
2.2	The law on business names	148
2.3	Distribution law	148
2.4	Special regulations for merchants in contract law	149
3.	Company law.....	150
4.	Competition law.....	150
III.D Business Law in Austria (<i>Dietmar Dokalik</i>)		152
1.	Legal Sources	152
2.	The Business	152
2.1	Definition.....	152
2.2	Business Name and Business Register.....	153
2.3	Transfers of Businesses	154
2.4	Entrepreneurial Representation.....	155
3.	Business-Related Transactions	156
3.1	General.....	156
3.2	Special Contract Law.....	156
3.2.1	Sale of Goods.....	156
3.2.2	Commission agency business and other sales intermediaries	157
3.2.3	Forwarding and warehousing	158
3.2.4	Freight business.....	158
3.2.5	New types of contracts (a selection).....	159
Commercial Law Glossary		161
Glossar Handelsrecht		168
IV.A Employment Law in the United States (<i>Colin A. Walker</i>)		177
1.	Introduction	177
2.	At-Will Employment	177
3.	Employment Contracts.....	177
4.	Restrictive Covenants.....	178
5.	Trade Secret Protection	179
6.	Duty of Loyalty	179
7.	Discrimination, Harassment, Retaliation	180
8.	Wrongful Termination in Violation of Public Policy and Whistle-Blower Claims.....	181
9.	Wage Claims.....	181
10.	Workers Compensation	181
11.	Unemployment Insurance Compensation Benefits.....	181
12.	Family and Medical Leave.....	181
13.	Wage/Hour Issues	182
14.	Immigration/Employment Eligibility Verification	182
15.	The Worker Readjustment and Retraining Notification Act (“WARN”).....	182
16.	The Occupational Safety and Health Act (“OSHA”).....	183
17.	Employee Retirement Income Security Act (“ERISA”).....	183
18.	COBRA.....	183

19. Employee Polygraph Protection Act	183
20. National Labor Relations Act ("NLRA")	183
21. Reemployment of Veterans	184
22. Employee Background Checks	184
23. Bankruptcy	184
24. Posters	184
IV.B Employment Law in the United Kingdom (<i>Michael H. Whincup</i>)	185
1. Introduction	185
2. The Parties	185
3. The Form of the Contract	185
4. The Terms of the Contract	186
4.1 Collective agreements	186
5. Implied Terms and Legal Duties	186
5.1 Employers' duties	186
5.1.1 Safety	187
5.1.2 Discrimination	188
5.1.3 Union membership; recognition; consultation	188
5.1.4 Hours and holidays	188
5.1.5 Pay	189
5.1.6 Sick pay	189
5.1.7 Maternity and paternity rights	189
5.1.8 Notice of termination	189
5.1.9 Good faith	190
5.1.10 Restraint of trade	190
6. Employees' Legal Duties	191
7. Termination of the Contract	191
7.1 Dismissal	191
7.2 Wrongful dismissal	191
7.3 Unfair dismissal	192
7.4 Meaning of dismissal	192
7.4.1 Procedure	192
7.5 Grounds for dismissal	194
8. The Right To Strike	194
8.1 Union rights	195
8.2 Strikers' rights	195
8.3 Conclusion	195
IV.C Labour Law in Germany (<i>Christian Darge</i>)	196
1. Introduction	196
2. The parties	196
2.1 Employee	197
2.2 Employer	197
2.3 Works councils and staff committees	197
2.4 Collective bargaining parties	198
3. Sources of labour law	198
3.1 Constitution	198
3.2 Laws and regulations	198
3.3 Collective bargaining agreements (<i>Tarifverträge</i>)	198
3.4 Plant agreements (<i>Betriebsvereinbarungen</i>) and public service agreements (<i>Dienstvereinbarungen</i>)	199

3.5	Individual employment contracts.....	199
3.6	Business practice.....	199
3.7	Judge-made law	199
4.	Establishing an employment relationship	199
5.	Legal protection of personality in employment relationships	200
5.1	Principle of equal treatment.....	200
5.2	Protection of employee data.....	201
6.	Atypical employment relationships.....	201
6.1	Part-time employment	201
6.2	Fixed-term employment.....	202
6.3	Temporary agency work.....	202
7.	Termination of an employment relationship	203
7.1	Avoidance (<i>Anfechtung</i>).....	203
7.2	Termination agreement (<i>Aufhebungsvertrag</i>)	203
7.3	Termination by notice (<i>ordentliche Kündigung</i>)	204
7.4	Termination without notice (<i>außerordentliche Kündigung</i>).....	205
7.5	Termination including an option to change the terms of employment (<i>Änderungskündigung</i>)	205
8.	Transfer of undertakings	206
9.	Collective bargaining law and industrial action	207
10.	Co-determination (<i>Mitbestimmung</i>)	207
11.	Labour law disputes	209
IV.D Labor Law in Austria (Martin E. Risak).....		211
1.	Contracts of Employment	211
1.1	Applicable law	211
1.2	Employment contract or contract for services?	211
1.3	Form and alteration	212
2.	Rights and Obligations of Employers and Employees.....	213
2.1	Remuneration.....	213
2.1.1	Wages/Salaries.....	213
2.1.2	Special payments (vacation benefit and Christmas pay)	213
2.2	Annual leave	213
2.2.1	Leave entitlement.....	213
2.2.2	Timing of annual leave	213
2.2.3	Holiday allowance and indemnity payment.....	214
2.3	Sick leave	214
2.4	Other cases of (paid) special leave	215
3.	Working time.....	215
3.1	The Austrian working time legislation.....	215
3.2	Maximum working time	215
3.3	Overtime and excess work.....	216
3.4	Rest periods	217
4.	Termination of Employment.....	217
4.1	Forms of termination.....	217
4.1.1	Termination by agreement	217
4.1.2	Expiry of a fixed term contract	217
4.1.3	Notice of termination.....	217
4.1.4	Termination without notice	218
4.2	Remedies in case of dismissal	219
4.2.1	Contesting termination	219

4.2.2 Compensation.....	219
4.3 Employees enjoying special protection against dismissal.....	220
4.4 Severance pay (<i>Abfertigung</i>).....	220
4.4.1 The old system.....	220
4.4.2 The new system.....	221
5. Industrial Relations in Austria.....	221
5.1 Social partnership.....	221
5.2 Works councils.....	222
Employment Law Glossary	224
Glossar Arbeitsrecht	230
Musterdokumente	237
V.A A Typical Real Estate Purchase Transaction in the United States <i>(J. Christopher Kinsman)</i>	247
1. The Real Estate Contract.....	247
2. Diligence and Entitlements.....	248
2.1 Title Review.....	248
2.2 Survey Review.....	249
2.3 Environmental Review.....	250
2.4 Entitlements.....	251
3. Financing the Purchase.....	253
4. Types of Mortgage Lenders.....	254
4.1 Mortgage Bankers.....	254
4.2 Mortgage Brokers.....	254
4.3 Wholesale Lenders.....	254
5. Closing.....	255
5.1 Types of Tenancies.....	255
5.1.1 Tenancy in Common.....	255
5.1.2 Joint Tenancy.....	255
5.1.3 Tenancy by the Entirety.....	255
5.2 Types of Deeds.....	255
5.2.1 General Warranty Deed.....	256
5.2.2 Special Warranty Deed.....	256
5.2.3 Quitclaim Deed.....	256
5.2.4 Bargain and Sale Deed.....	256
5.3 Recording the Deed and the Mortgage.....	256
V.B Real Property Law in England and Wales <i>(Maeve Rees-Jones)</i>	258
1. Ownership of land and estates in land.....	258
1.1 Freehold estate.....	258
1.2 Leasehold estate.....	258
2. Interests in land.....	258
2.1 Legal interests in land.....	258
2.2 Equitable interests in land.....	259
2.3 Infringement of interests in land.....	259
2.4 Enforcement of interests in land.....	259
3. Registered and unregistered land.....	259
3.1 Unregistered land.....	259
3.2 Contents of the register.....	260
3.2.1 The property register.....	260

3.2.2	The proprietorship register	260
3.2.3	The charges register	260
3.3	Different classes of title to land	260
3.3.1	Classes applicable to both freehold and leasehold land	260
3.3.2	Additional class applicable to leasehold land only	260
4.	Proprietary interests	260
4.1	Registering an interest	261
4.1.1	Notices	261
4.1.2	Restrictions	261
4.2	Rights and land charges	261
5.	Leases	261
5.1	What constitutes a lease?	261
5.1.1	Fixed term tenancy	261
5.1.2	Periodic tenancy	262
5.2	Termination of leases	262
5.2.1	Expiry	262
5.2.2	Notice to quit	262
5.2.3	Surrender	262
5.2.4	Merger	262
5.2.5	Repudiatory breach	262
5.2.6	Forfeiture	262
5.3	Leasehold covenants	262
5.4	Remedies for breach of covenant	263
5.4.1	Breaches by the lessee	263
5.4.2	Breaches by the lessor	263
6.	Co-ownership of property	263
6.1	Severing a joint tenancy	264
6.2	Applications for sale by co-owners in dispute	264
6.3	Bankruptcy of a co-owner	264
7.	Licences	264
V.C Land Law in Germany (<i>Burkhard Klüver</i>)		265
1.	Introduction	265
2.	Plots of land	265
3.	Principles of property law (<i>Sachenrecht</i>)	266
3.1	The principle of abstraction or separation	266
3.2	Principle of absoluteness	266
3.3	Principle of publicity	266
3.4	Principle of priority	266
4.	Rights in rem to plots of land	266
4.1	Ownership	266
4.2	Servitudes	267
4.2.1	Easement (<i>Grunddienstbarkeit</i>)	267
4.2.2	Usufruct (<i>Nießbrauch</i>)	267
4.2.3	Limited personal servitude (<i>beschränkte persönliche Dienstbarkeit</i>)	267
4.2.4	Right of first refusal (<i>Vorkaufsrecht</i>)	267
4.3	Land charges (<i>Reallasten</i>)	267
4.4	Liens on real property (<i>Grundpfandrechte</i>)	267
5.	Changes to rights to real property	268
6.	Priority notices	269
7.	Commonhold property	269

8. Heritable building right	269
9. Tenancy and lease relationships	270
10. A typical land purchase transaction in Germany	270
10.1 The transaction	270
10.2 The costs	271
11. Tax aspects	272
11.1 Land tax (<i>Grundsteuer</i>)	272
11.2 Land acquisition tax (<i>Gründerwerbsteuer</i>)	272
11.3 Taxation of profits on disposal (capital gains) (<i>Besteuerung des Veräußerungsgewinns</i>)	272
V.D Real Estate Law in Austria (<i>Christian Auinger</i>)	273
1. Introduction	273
2. Property law principles	273
3. Rights in rem	273
3.1 Freehold/Fee Simple	273
3.2 Condominium ownership (<i>Wohnungseigentum</i>)	274
3.3 Building right	274
3.4 <i>Superädifikat</i> [Structure erected on third party land (superstructure)]	274
3.5 Lien	274
3.6 Easements	275
3.7 Land charges	275
3.8 Repurchase right and right of first refusal/pre-emption	275
3.9 Tenancy right	275
3.10 Prohibition to encumber or sell property	276
4. Acquisition of rights in rem	276
5. Land Register	276
6. Cadastre	277
7. Structure and public access to the Land Register	278
7.1 General	278
7.2 Inspection of and access to the Land Register	278
7.3 Structure of the Land Register	278
7.3.1 Main Register	278
7.3.2 List of cancelled entries	280
7.3.3 Collection of documents	280
7.3.4 Auxiliary registers/lists	280
8. Land Register entries	280
8.1 General	280
8.2 <i>Einverleibung</i> [Registration]	281
8.3 <i>Vormerkung</i> [Priority notice]	281
8.4 <i>Anmerkung</i> [Annotation]	282
9. Partitioning and combining real properties	282
9.1 Removing and adding (entire) plots of land	282
9.2 Partitioning plots of land	282
9.3 Combining plots of land	282
10. Public-law <i>restrictions on title</i>	283
10.1 General	283
10.2 Land transfer	283
10.3 Zoning laws and building codes	283
Real Estate Glossary	284
Glossar Liegenschaftsrecht	292

VI.A Family Law in the United States (<i>Scott T. Rodgers</i>)	301
1. Marriage	301
1.1 The Marital Relationship	301
1.2 Pre-Marital Agreements	302
1.3 Invalidity of Marriage	303
2. Parental Rights.....	303
2.1 Relinquishment of Parental Rights.....	303
2.2 Adoption of a Child.....	304
2.3 Parental Responsibilities.....	304
3. Dissolution of Marriage (Divorce)	305
3.1 Dissolution of the Marital Relationship	305
3.2 Division of the Marital Estate	306
3.3 Maintenance (Alimony).....	306
3.4 Child Custody and Support.....	307
3.5 The Impact of Bankruptcy of one of the Parties	307
3.6 Criminal Allegations in Dissolution Proceedings.....	307
4. Non-Married Parties' Rights	308
5. Disinheriting a Spouse	308
VI.B Family Law in England and Wales (<i>Maeve Rees-Jones</i>).....	309
1. Marriage and Civil Partnership	309
1.1 Legality of marriage	309
1.1.1 Civil marriages	309
1.1.2 Church of England marriages.....	309
1.2 Civil partnerships.....	309
2. Divorce and separation	310
2.1 Applications for divorce.....	310
2.2 Judicial separation.....	311
2.2.1 Nullity	311
2.3 Matrimonial home rights.....	312
2.4 Financial and property awards	312
2.4.1 Orders for the benefit of spouses	312
2.4.2 Matters taken into account when making orders	313
3. Children	313
3.1 Parental responsibility.....	313
3.2 Disputes involving children	313
3.2.1 Residence order.....	314
3.2.2 Contact order.....	314
3.2.3 Prohibited steps order	314
3.2.4 Specific issues order	314
3.2.5 Applying for a Section 8 order.....	314
3.3 Child maintenance	315
3.3.1 The Child Support Act 1991.....	315
3.3.2 The Child Support, Pensions and Social Security Act 2000	315
3.3.3 Paternity disputes.....	315
3.3.4 Choice in arranging child maintenance	315
3.3.5 Circumstances that the Agency may take into account	316
VI.C Family Law in Germany (<i>Martin Franke and Sara Manzke</i>)	317
1. Introduction	317

2.	Marriage law	317
2.1	Engagement (Sections 1297 – 1302).....	317
2.2	Entering into a marriage (Sections 1303 – 1312)	318
2.3	Conjugal community (Sections 1353 <i>et seq.</i>).....	318
2.4	The matrimonial property regime (Sections 1363 – 1563)	319
2.4.1	Separation of property (<i>Gütertrennung</i>) (Section 1414)	319
2.4.2	Community of property (<i>Gütergemeinschaft</i>) (Sections 1415 – 1518)	319
2.4.3	Community of accrued gains (<i>Zugewinnngemeinschaft</i>) (Sections 1363 – 1390)	320
2.5	Divorce and separation	320
2.5.1	Separation	321
2.5.2	Maintenance during separation	321
2.5.3	Divorce (Sections 1564 – 1587p)	322
2.5.4	Statutory equalisation of pension benefit rights	323
2.5.5	Maintenance of the divorced spouse.....	323
2.5.6	Compensation for accrued gains	324
2.5.7	Household items	324
2.5.8	Matrimonial home	325
3.	Parent and child law.....	325
3.1	Consanguinity and descent	326
3.2	General effects of a parent-child relationship.....	326
3.3	Parental care	327
3.4	Child maintenance	328
3.5	Adoption of a child.....	328
4.	Cohabitation.....	328
5.	Civil unions	329
6.	Guardianship, care, wardship (Section 1773 <i>et seq.</i>)	329
7.	Anti-Violence Act	329
VI.D Family Law in Austria (<i>Michael Stich</i>).....		331
1.	Introduction	331
2.	The Law of Marriage.....	331
2.1	Entering into a marriage	331
2.2	Nullity of marriage	332
2.3	Nullification of marriage.....	332
2.4	Effects of marriage	333
2.5	Divorce.....	333
2.5.1	Divorce for fault (marital offences, Section 49 <i>EheG</i>)	333
2.5.2	Divorce on other grounds (i.e. with no fault on the part of the respondent)	334
2.5.3	Divorce by consent (Section 55a <i>EheG</i>).....	335
2.6	Consequences of divorce.....	335
2.6.1	Division of matrimonial utility assets and matrimonial savings.....	337
3.	Cohabitation.....	338
4.	Registered partnership.....	339
5.	About rights between parents and children	339
5.1	General provisions	339
5.2	Parentage	340
5.3	Name.....	340
5.4	Custody	341
5.5	Parental custody.....	341
5.6	Phase of preliminary parental responsibility	341

5.7 Other rights an duties	342
5.8 Adoption	343
5.9 Foster parentage.....	343
5.10 Child maintenance	344
6. Guardianship and trusteeship.....	344
6.1 Guardianship of disabled persons.....	344
6.2 Trusteeship	345
7. Interim injunctions for protection against violence	345
7.1 Protection against domestic violence (“go order”)	345
7.2 General protection against violence.....	345
7.3 Protection against stalking	346
Family Law Glossary	347
Glossar Familienrecht	353
Musterdokumente	360
– Scheidungsklage (österreichische mit Übersetzung)	362
– Unterhaltsbeschluss (österreichischer mit Übersetzung)	364
Stichwortverzeichnis	367