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Rencontres informelles de l'Institut suisse de droit comparé

Narrativising Case Law for Comparative Analysis: A Case for a New Approach in Contemporary Comparative Law

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As of today, there does not seem to be a single structured approach to comparing case law between different jurisdictions in the comparative law literature. In other words, comparing case law is taken for granted, without asking how it could or even should be compared.

Political scientists have been developing comparative perspectives on judicial behaviour for some time now. Yet, the comparative law literature still lacks comprehensive approaches to comparing case law. This regards both a level beyond doctrinal case law cherry-picking and quantitative linguistic analysis (corpus analysis).

The narrative approach put forward in this presentation can be seen as an attempt to outline a systematic approach to case law comparison. At the outset, its main features as well as its potential advantages and limitations will be discussed. Furthermore, normative arguments for adopting such an approach in comparative studies will be pointed out, and, finally, prospective areas for relevant case studies will be identified. The presentation will conclude with an example of the application of the narrative method, by focusing on the narrative on the concept of consumer in three different jurisdictions, namely the European Court of Justice, the French *Cour de cassation* and the Polish *Sąd Najwyższy*.

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