

A Note on Style, Transcriptions, and Translations

Style

Both the writing and the citation style adopted in this dissertation generally follows the ‘New Hart’s Rules: The Oxford Style Guide’ and the ‘Oxford University Standard for the Citation of Legal Authorities (OSCOLA)’.¹ OSCOLA will be used for all bibliographical material (monographies, journal articles, websites, etc), English case law and legislation, and for EU cases and legislation. German and Japanese legislation and cases will be cited according to the conventions of each country.² Accordingly, a German case will be referenced by naming the court, the decision date, the case reference number, and, where applicable, one or two case records. Similarly, Japanese cases will be identified by the court name, the date of the decision, and the case record. Deviations from the two standards mentioned above will be consciously adopted in the following cases:

First, where the title of a source is in a language other than English, the original title will be given first, followed by a translation into English in square brackets. Secondly, in order to avoid doubts, reference to page numbers will be given as a page range with the numbers in full, ie, 150–164 instead of 150–64. Thirdly, for ease of readability, links to webpages will not be put between angled brackets (< >), nor will the last date of access be included. Finally, for easy readability, titles of references will be written in italics and without inverted commas, irrespective of the language of the reference or its type (monography, journal article, etc).

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- 1 Robert M Ritter, *New Hart’s Rules: The Oxford Guide to Style* (OUP 2005); Oxford University Standard for the Citation of Legal Authorities (4th edn, 2012), hereinafter ‘OSCOLA 2012’. The rules for citing international law are contained in *OSCOLA 2006: Citing International Law Sources Section* (excerpt from the 2006-edn), hereinafter ‘OSCOLA 2006’.
 - 2 Although there seems to be no uniform citation style in Germany, the following is a useful general guide: B Sharon Byrd and Matthias Lehmann, *Zitierfibel für Juristen* [Citationguide for Lawyers] (2nd edn CH Beck/Nomos/Manz/Vahlen 2016). A useful guide on the form of citation and translation of titles of judicial, statutory, or other materials from Japanese into English, see, eg, Hideo Tanaka and Malcolm DH Smith (eds), *The Japanese Legal System: Introductory Cases and Materials* (10th edn, UTP 2000) 30–35.

Translations and Transcriptions of Foreign Language Terms

Any terms from languages other than English, ie, German or Japanese, and occasionally Latin, will be given in two forms: Either the English translation will be followed by the original term in brackets; or, where this seems more practical, the order will be reversed. Japanese words will be transcribed into the Roman alphabet ('romanised'), but the original kanji³ will be stated also in order to minimise misunderstandings. The romanisation of Japanese terms will be made in accordance with the transcription and segmentation system adopted by Bernd J Götze.⁴ Unless otherwise stated, transcriptions of Japanese characters, especially of legal provisions, will have been prepared by this author with reference to this segmentation system.

English translations of German and Japanese statutory provisions, and, in case of Japanese legislation, kanji, will be taken from the translations of the law in question as provided by the German Federal Ministry of Justice and Consumer Protection (*Bundesministerium der Justiz und für Verbraucherschutz*, hereinafter 'BMJV')⁵ and the Japanese Ministry of Justice (*Hōmu-shō*, 法務省)⁶ in so far as these are available.⁷ Titles of Japanese

3 According to the entry in the Oxford English Dictionary Online at www.oed.com, 'kanji' means: '(a) The corpus of borrowed and adapted Chinese ideographs which forms the principal part of the Japanese writing system. Cf. kana n. (b) Any one of these ideographs. Used esp. attributive.'

4 Bernd J Götze and Harald Baum, *Merkblatt für eine einheitliche Transkription, Übersetzungen und Zitierweise für Veröffentlichungen in der Zeitschrift für Japanisches Recht* [Explanatory Notes for a Uniform Approach Regarding Transcriptions, Translations and Citations in Publications for the Journal of Japanese Law] (1998) 5 ZJapanR / JJapanL 207–216. For more detailed rules on the word segmentation of transcribed Japanese terms, see Bernd J Götze, *Wortsegmentierungsregeln (nicht nur) für japanische Rechtsbegriffe* [Word Segmentation Rules (Not Just) for Japanese Legal Terms] (2005) 19 ZJapanR / JJapanL 207–213.

5 See www.gesetze-im-internet.de/Teilliste_translations.html.

6 See www.japaneselawtranslation.go.jp/. For further information regarding the development of the governmental project surrounding the English translation of Japanese laws, as well as explanations of the translation methods used, see Noboru Kashiwagi, *Translation of Japanese Statutes into English* (2007) 12 ZJapanR / JJapanL 221–226 and *ibid*, *Translation of Japanese Statutes* (2014) 11 University of Tōkyō Journal of Law and Politics 1–7; see further Carol Lawson, *Found in Translation: The "Transparency of Japanese Law Project" in Context* (2007) 12 ZJapanR / JJapanL 187–199.

7 Thus, unless otherwise stated, translations of provisions will have been taken from these (official) translations. Direct links to the translations of specific laws will be indicated when the enactment in question is referred to for the first time.

and German pieces of statutory legislation (*bōritsu*, 法律, and *Gesetze* respectively) will be translated as ‘law’, not ‘act’ in order to avoid confusion with English statutes, unless an official translation uses the latter term.⁸ Japanese legal terms that are not included in statutory provisions will normally be taken from the Standard Legal Terms Dictionary published by the Japanese Law Translation Council.⁹ Otherwise, reference in relation to translations and transcriptions will also often be made to Bernd J Götze’s *Japanisch-Deutsches Rechtswörterbuch* [Japanese-German Legal Dictionary],¹⁰ and, in relation to the meaning of kanji, to Wolfgang Hadamitzky and others (eds), *Langenscheidt Großwörterbuch Japanisch-Deutsch Zeichenwörterbuch* [Langenscheidt’s Japanese-German Character Dictionary].¹¹ Translations of other cited texts, such as quotes from articles or monographies in a foreign language, will be the work of this author. Exceptionally, where an English translation of a work exists, this will be shown by adding the phrase ‘English title’ or similar in the reference.

8 Confusion with the wide meaning of the term ‘law’ should not arise, as the context of the discussion will indicate instances of the wider meaning.

9 Japanese Law Translation Council, *Hōrei yōgo nichi’ei hyōjun taiyaku jisho* [English title: Standard Legal Terms Dictionary] (Version 14, 2019), available at www.japaneselawtranslation.go.jp/dict/download?re=02. This dictionary will hereinafter be referred to as the ‘Dictionary of Standard Japanese Legal Terms’. For further information regarding the Dictionary, see Kashiwagi, ‘2014’ (fn 6).

10 2nd edn, Seibun-dō 2012.

11 Langenscheidt KG 1997.