

Agricultural land

# **Authority and competence of German courts in land disputes**

International Scientific and Practical Conference for the Adaptation of Land Legislation of Ukraine to the Requirements of the European Union

Security of Land Rights

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# Procedural Laws follow substantive law I

- **Public law – a definition**

Public law regulates the constitution of government as well as administrative bodies, the relation between these two and their relations to nationalists, citizens of other countries and relations to other nations.

- Crucial for assignment to public law is the participation of a public institution **and** its mandatory power

# Procedural law follows substantive law II

- **Civil law - a definition**

In contrast, civil law regulates relations between natural and artificial persons in fields of law which are not assignable to public law.

Fundamental ideas :

- legal bodies are equal before law in civil law
- legal bodies use mandatory power

# Codes of procedure take account

- **Legal code of administration court:**

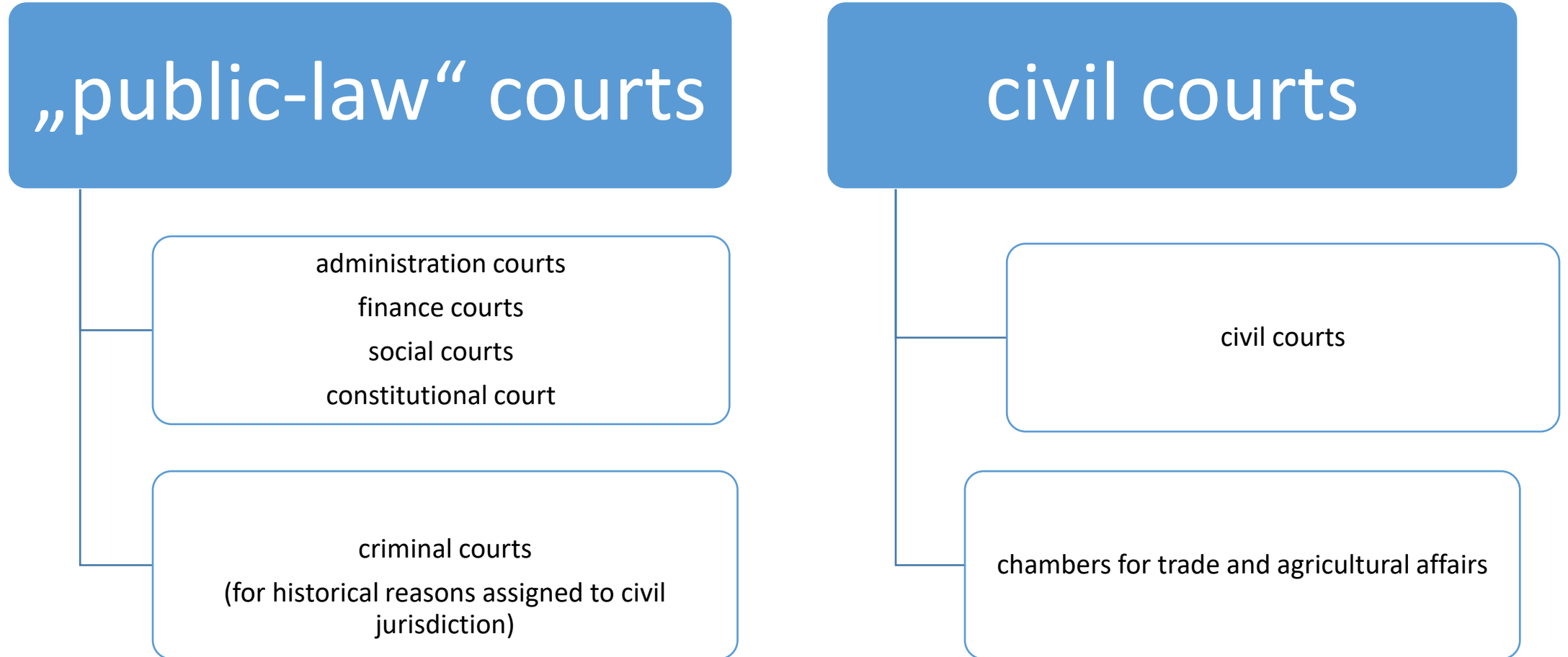
principle of official investigation

- **Code of civil procedure**

principle of adduction

- Dictum of disposition

# Organization of jurisdiction in Germany



# Agricultural land - substantive law I

- **public-legal regulation of sale and trade**
- **other agricultural cases und public law**
  - „structure and plot parceling law“ – regional development plan
  - law of environment, animal, water and nature protection
  - law of economics and administration

# agricultural land – substantive law II

- **matters of civil law relating to agricultural land**

  - sales and rental law

  - law of credit and security

- **law of incorporated corporation**

# Competence of court in Germany I

- **Generally**, cases of public-legal agricultural law are heard at administration courts.
- For historical reasons only, public-legal disputes according to agricultural law are assigned to agricultural courts which belong to ordinary jurisdiction.
- Procedure code of these matters (FamFG) corresponds to VwGO; in so far: agricultural codes act as “administration courts”.



# Competence of courts in Germany II

- All sorts of civil-legal disputes are judged at ordinary courts except of cases that are assigned to agricultural law according to agricultural law
- Corresponding procedure codes in FamFG are by assignment to code of civil procedure identical to „common“ disputes of civil law.

# Conclusions for jurisdictional competence in regard to the Ukrainian reform act of land legislation

- Experiences in Germany show: The assignment could result from practical considerations, only, if respective procedure codes correspond to matters
- At medium sight public general public-legal questions as environment and nature protection and so on will increase and come to the fore.
- Organization of chambers for commercial matters have proven of value.

Thanks a lot for your  
attention!