

JOURNAL OF COMPARATIVE LAW

比较法研究

中国政法大学主办 · 比较法学研究院编辑

■唐 力

“法官释法”：陪审员认定事实的制度保障

■陈韵希

合同预期不履行的救济及其法理基础

■许明月 段 浩

农业转移人口市民化的法律激励机制构建

■裴 炜

英国认罪协商制度及对我国的启示

■陈光中 姜 丹

关于《监察法（草案）》的八点修改意见

6

2017年第6期

（双月刊 · 总第154期）

目 录

【论文】

- “法官释法”:陪审员认定事实的制度保障 唐 力(1)
- 论法律行为的效力评价体系 殷秋实(13)
- 合同预期不履行的救济及其法理基础
- 再论《合同法》不安抗辩权和预期违约的界分 陈韵希(30)
- 返还原物请求权体系解释论 滕佳一(49)
- 论网络环境中表演权的适用
- 兼评《著作权法修改草案(送审稿)》对表演权的定义 王 迁(64)
- 农业转移人口市民化的法律激励机制构建 许明月 段 浩(75)
- 犯罪竞合的体系位置与原则
- 以德国竞合理论为参照 徐凌波(86)
- “从一重处断”竞合条款的理解与适用
- 兼谈我国竞合(罪数)体系的构建 王彦强(98)
- 英国认罪协商制度及对我国的启示 裴 炜(118)
- 普通法的内在机制与社会经济发展 李红海(140)
- 论土地财政的历史命运 符启林(150)

【法政时评】

- 关于《监察法(草案)》的八点修改意见 陈光中 姜 丹(164)
- 论交易习惯的司法适用及其限制 宋 阳(174)

【人物与思想】

- 功能比较法的误用与东方主义的变异
- 从络德睦的《法律东方主义——中国、美国与现代法》谈起 鲁 楠(187)

2017年目录索引(199)

JOURNAL OF COMPARATIVE LAW

Bimonthly

Serial	No. 154	Nov. 2017	No. 6
--------	---------	-----------	-------

Contents

Articles

- Judge Instruction: The System Guarantee for the Jurors Ascertaining the Fact *Tang Li* (1)
- The Validity and Effect of Legal Transactions *Yin Qiushi* (13)
- Remedies for Prospective Nonperformance of Contract and Their Theoretical Basis: Rethinking the Distinction
between Defense of Insecurity and Anticipatory Breach under Chinese Contract Law ... *Chen Yunxi* (30)
- The Systemic Interpretation of Claim on Rivendicazione *Teng Jiayi* (49)
- On the Application of the Right of Performance in the Internet; Also on the Definition of the Right of
Performance in the Draft Amendment of the Copyright Law *Wang Qian* (64)
- The Construction of Legal Incentive Mechanism for the Rural Migrants' Transformation into Urban Residents
..... *Xu Mingyue & Duan Hao* (75)
- The System Position and Principle of Criminal Concurrence: The German Concurrence Theory as a Reference
..... *Xu Lingbo* (86)
- Understanding and Application of the Terms of "Convicted and Punished in Accordance with the Heavier
Provision": On the Construction of Concurrence's (Offense Counting's) System
..... *Wang Yanqiang* (98)
- Coordinating Guilty Plea and Leniency: Experience of England and Wales, Introspection, and Enlightenment
..... *Pei Wei* (118)
- Inherent Mechanism of the Common Law and Its Dedication to the Development of Economic
..... *Li Honghai* (140)
- On the Historical Destiny of Land Finance *Fu Qilin* (150)

Comments on Legislation and Jurisdiction

- Eight Suggestions on "Supervision Law (Draft)" *Chen Guangzhong & Jiang Dan* (164)
- On the Judicial Application of Trade Usages and Its Restrictions *Song Yang* (174)

Figures and Thought

- The Misuse of Functional Comparative Law and the Alienation of Orientalism: Starting from Teemu Ruskola's
Legal Orientalism—China, the United States and Modern Law *Lu Nan* (187)

Index to 2017 (199)

Journal of Comparative Law

Bimonthly

Serial	No. 154	Nov. 2017	No. 6
---------------	----------------	------------------	--------------

Selected Articles

■ Tang Li

Judge Instruction: The System Guarantee for the Jurors Ascertaining the Fact

■ Chen Yunxi

Remedies for Prospective Nonperformance of Contract and Their Theoretical Basis

■ Xu Mingyue & Duan Hao

The Construction of Legal Incentive Mechanism for the Rural Migrants' Transformation
into Urban Residents

■ Pei Wei

Coordinating Guilty Plea and Leniency: Experience of England and Wales, Introspection,
and Enlightenment

■ Chen Guangzhong & Jiang Dan

Eight Suggestions on "Supervision Law (Draft)"

ISSN 1004-8561



国际标准刊号: ISSN 1004-8561

国内统一刊号: CN11-3171/D

定 价: 30.00元