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| <b>Program: Undergraduate Academic Studies</b>   |
| <b>Course title: COMPARATIVE LEGAL TRADITIONS</b>  |
| <b>Teachers: Prof. Dr Sima Avramović, Ass. Prof. Dr Vojislav Stanimirović</b>  |
| <b>Course status: mandatory</b>  |
| <b>Number of ECTS: 8</b>   |
| <b>Requirements:</b>   |
| <b>Aims of the course: Developing critical thinking on legal-history phenomena, understanding of the nature of institutions and enhancing the knowledge on their genesis.</b>  |
| <b>Course result: Acquiring knowledge on key aspects of world civilizations which are of historical and legal value.</b>   |
| <p><b>Course content:</b></p> <p>1. INTRODUCTORY NOTIONS</p> <p>Comparative legal traditions and Legal history<br/> Comparative law and comparative method<br/> Legal traditions and historical jurisprudence<br/> Legal families, legal culture and legal transplants<br/> Sources of information (<i>fontes cognoscendi</i>) and sources of law (<i>fontes existendi</i>)</p> <p>2. PRIMITIVE LAW</p> <p>Prehistorical organization and tribal societies: custom and customary law<br/> Marriage and family in tribal societies<br/> Primitive law – its notion and characteristics<br/> Primitive law in contemporary world (<i>Native American Law, Aborigine Law, Africa, etc.</i>)</p> <p>3. ANCIENT LEGAL TRADITIONS</p> <p>3.1. Characteristics of the Ancient history – appearance of the first states and written law</p> <p>3.2. Oriental legal traditions</p> <p>3.2.1. Cuneiform law (the oldest codes in the world: Ur Nammu Code, Lipit Ishtar Code, Code of Eshnuna, Hittite law code, Assyrian codes)</p> <p>3.2.2. Babylonian empire and Code of Hammurabi</p> <p>3.2.3. Ancient Egypt and Egyptian legal tradition</p> <p>3.2.4. Jewish legal tradition</p> <p>3.3. Ancient Greek legal traditions</p> <p>3.3.1. Sparta and unwritten law</p> <p>3.3.2. Law Code of Gortyn – the oldest preserved European codification</p> <p>3.3.3. Ancient Athens and its legal system – cradle of contemporary legal and political concepts</p> <p>3.3.4. Trial by jury, forensic speeches, persons involved in litigation (witnesses, <i>logographoi</i>, <i>synegoroi</i>, <i>sykophants</i>, etc.)</p> <p>3.3.5. Functioning of democratic political institutions in ancient Athens</p> <p>3.4. Hellenistic state and law – transmitters of oriental and Greek legal traditions</p> <p>4. MEDIEVAL LEGAL TRADITIONS</p> <p>Main features of Middle ages – feudal <i>ius commune</i> and particular <i>ius proprium</i></p> |

Byzantine legal system – correlation with Roman law and nursery of law in South-eastern Europe  
Duchy of Franconia and Frankonian law – common embryo of German and French legal traditions and reception of Roman law

Cannon law as a factor of medieval law unification

Emergence of Arabic state and Shari legal tradition

4.6. Medieval England and the birth of *Common law* traditions

4.6.1. *Magna Carta Libertatum*

4.6.2. *Habeas Corpus Act*

4.6.3. Specific features of the Common law in England

## 5. LEGAL TRADITIONS OF THE MODERN ERA

5.1. Main features of the Modern era – emergence of the modern state and law

5.2. Dutch Revolution, Dutch Republic and Roman-Dutch law

5.3. German lands and German legal traditions

5.3.1. Prussia and Prussian code - *The Allgemeines Landrecht für die preußischen Staaten*

5.3.2. Austria and Austrian civil code - *The Allgemeines bürgerliches Gesetzbuch* (ABGB)

5.3.3. Unification of Germany and Civil code of Germany - *The Bürgerliches Gesetzbuch* (BGB)

5.4. Swiss Republic and federal democratic system of government. The *Swiss Civil Code* of 1907

5.5. The English Parliamentary System – political framework for the legal development

5.5.1. Emergence of the English Parliamentarism

5.5.2. Constitutional acts of modern England – rudiments of human rights

5.5.3. Constitutional habits and structuring separation of powers

5.6. USA presidential system as a political framework of legal development

5.6.1. Political documents of the American revolution and *ius naturale*

5.6.2. Constitution of 1787, separation of powers and abandoning monarchy

5.6.3. Political organization - checks and balances

5.6.4. *Bill of Rights* and Amendments to the United States Constitution

5.6.5. Federalism and organisation of the judiciary

5.6.6. Features of American *Common law* tradition

5.7. Legal and political tradition of France

5.7.1. Declaration of the rights of Man and of the Citizen

5.7.2. Constitutions of 1791, 1793, 1795

5.7.3. Napoleon and the French law

5.7.4. The Bourbon restauration of the monarchy

5.7.5. The Second, Third, Forth and Fift Republic in France

5.7.6. *Code civil* and spread of the French legal tradition

5.8. Legal traditions of socialist countries

5.9. European law and legal tradition – new *ius commune*

5.10. Legal imperialism (Conquerors and Conquered), legal transplants (Donors and Recipients), and global reach of legal families

### Literature:

R. David, - John E. C. Brierley, *Major legal systems in the world today*, London 1985 (in French: R. David, *Les grands systèmes de droit contemporains*, Paris 1964)

P. Glenn, *Legal Traditions of the World*, Oxford 2007.

M. A. Glendon, P. Carozza, C. Picker, *Comparative Legal Traditions in a Nutshell*, 2008  
 O. F. Robinson – T. D. Fergus – W. M. Gordon, *European Legal History*, London 1994  
 A. Watson, *Legal Transplants: An Approach to Comparative Law*, Athens GA 1993  
 A. Watson, *The Evolution of Western Private Law*, Baltimore - London 2001  
 S. Avramović, „From General Legal History to Comparative Legal Traditions“, *Annals of the Faculty of law in Belgrade* 3/2010, 20-39, also available at SSRN [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1626756](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1626756)

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|--|--------------------------------|-------------------------------|-----------|
| <b>Number of lectures – active classes</b>           | <b>Theoretical classes: 60</b> | <b>Practical classes : 30</b> |           |
| <b>Instruction method:</b>                           |                                |                               |           |
| <b>Grading system (maximum number of points 100)</b> |                                |                               |           |
| <b>Pre-exam obligations</b>                          | points                         | <b>Final Exam</b>             | points    |
| Activities during lectures                           | <b>10</b>                      | <i>Oral exam</i>              | <b>30</b> |
| Study group  | <b>20</b>                      |                               |           |
| Activities during practical classes                  | <b>10</b>                      |                               |           |
| Tests  | <b>10</b>                      |                               |           |
| Seminar classes                                      | <b>10</b>                      |                               |           |
| Other activities                                     | <b>10</b>                      |                               |           |